



# CBSA Biometrics Program

## POE Guide for Frontline Staff



PROTECTION • SERVICE • INTEGRITY

# Canada

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# Biometrics Program: POE Guide

## 1. Background

All biometrically enrolled applicants, regardless of enrolment location or department, will have an immigration identification number (IID) assigned to their fingerprints. The IID is assigned at time of enrolment by the Royal Canadian Mounted Police (RCMP).

In June, 2018, the Agency released the [Operational Bulletin: Expansion of the Biometrics Program - Coming into Force 1](#) in support of the expansion of the use of biometrics. The Agency also has an [online toolkit](#) which supports all activities related to immigration biometric enrolment.

IRCC and CBSA biometrics enrolments are completely separate. If a person applies to IRCC they must complete all of their processes with the IRCC service providers. The CBSA will not be providing the biometric enrolment services for IRCC applications; however, the CBSA will verify the fingerprints of all biometrically enrolled applicants.

Biometrics are collected by the Government of Canada from all foreign nationals who are:

1. Applying for a temporary resident visa or permit, a work permit or a study permit, or temporary resident permit (excluding U.S. nationals);
2. Applying for permanent residence; or
3. Claiming refugee or asylum status.

At all automated Ports of Entry (POEs):

CBSA officers working in Primary Inspection are expected to:

4. Conduct a facial comparison of the Biometric Photo with the traveller, passport photo and e-Passport photo.

At 57 biometrically enabled POEs:

CBSA officers working in Immigration Secondary are expected to:

5. Conduct a 1:1 fingerprint (10) verification of biometrically enrolled travellers; and
6. Biometrically enrol fingerprints (10) and digital photo for Study, Work and Temporary Resident Permit (TRP) applications initiated at POE.

In accordance with R12.1 of the Immigration and Refugee Protection Regulations, the coming into force of the regulatory amendments will be implemented in two (2) phases.

The first phase will come into force on July 31, 2018 for the following countries:

Afghanistan; Albania; Algeria; Andorra; Angola; Armenia; Austria; Azerbaijan; Bahrain; Bangladesh; Belarus; Belgium; Benin; Bosnia-Herzegovina; Botswana; Bulgaria; Burkina Faso; Burundi; Cambodia; Cameroon; Cape Verde; Central African Republic; Chad; Colombia; Comoros; Congo (Democratic Republic of the); Congo (Republic of); Croatia; Cyprus; Czech Republic; Denmark; Djibouti; Egypt; Equatorial Guinea; Eritrea; Estonia; Ethiopia; Finland; France; Gabon; Gambia; Georgia; Germany; Ghana; Greece; Guinea; Guinea-Bissau; Haiti; Hungary; Iceland; Iran; Iraq; Ireland; Israel; Italy; Ivory Coast; Jamaica; Jordan; Kazakhstan; Kenya; Kosovo; Kuwait; Kyrgyzstan; Laos; Latvia; Lebanon; Lesotho; Liberia; Libya; Liechtenstein; Lithuania; Luxembourg; Macedonia (FYR); Madagascar; Malawi; Mali; Malta; Mauritania; Mauritius; Moldova; Monaco; Montenegro; Morocco; Mozambique; Myanmar; Namibia; Netherlands (The); Niger; Nigeria; Norway; Oman; Pakistan; Palestinian Authority; Poland; Portugal; Qatar; Romania; Russia; Rwanda; San Marino; Sao Tome and Principe; Saudi Arabia; Senegal; Serbia; Seychelles; Sierra Leone; Slovak Republic; Slovenia; Somalia; South Africa; South Sudan; Spain; Sri Lanka; Sudan; Swaziland; Sweden; Switzerland; Syria; Tajikistan; Tanzania; Togo; Tunisia; Turkey; Turkmenistan; Uganda; Ukraine; United Arab Emirates; United Kingdom; Uzbekistan; Vatican City; Vietnam; Yemen (Republic of); Zambia; and Zimbabwe.

The second phase will come into force on December 31, 2018, for the following countries:

Antigua and Barbuda; Argentina; Australia; Bahamas; Barbados; Belize; Bhutan; Bolivia; Brazil; Brunei; Chile; China; Costa Rica; Cuba; Dominica; Dominican Republic; East Timor; Ecuador; El Salvador; Federated States of Micronesia; Fiji; Grenada; Guatemala; Guyana; Honduras; India; Indonesia; Japan; Kiribati; Korea (Democratic People's Republic of); Korea (Republic of); Malaysia; Maldives; Marshall Islands; Mexico; Mongolia; Nauru; Nepal; New Zealand; Nicaragua; Palau; Panama; Papua New Guinea; Paraguay; Peru; Philippines; Saint Kitts and Nevis; Saint Lucia; Saint Vincent and the Grenadines; Samoa; Singapore; Solomon Islands; Suriname; Thailand; Tonga; Trinidad and Tobago; Tuvalu; (citizens or nationals from) the United States of America; Uruguay; Vanuatu; and Venezuela.

## **2. Primary Processing Biometric Photo Verification: Making Biometric Referrals to Secondary**

Using the Integrated Primary Inspection Line (I PIL) Highway or Air/ Mobile Primary Inspection Line (MOPIL), conduct a photo comparison of the "Bio" photo.

The officer will be notified that a traveller is a biometrically enrolled traveller as the “Bio” tab will and “photo verification required” notice will appear in IPIL. If the traveller presents an e-Passport, the passport photo and biometrics photo will both appear in the tab.

Where “no match” is selected, a referral will be generated to Secondary Processing (SP) and the traveller will be referred to immigration secondary for fingerprint verification.

Should a biometrically enrolled traveller be referred to immigration for other purposes, a fingerprint verification should be conducted; however, the “Identity” alert will only appear for no-matches.

### **3. Secondary Processing Biometrics Verification: Accessing Biometric Referrals from Primary**

Using SP, select the primary referrals. It is mandatory in the air and land mode that all Immigration referrals be closed in SP.

From the Secondary Referral List (SRL) screen, select an immigration referral and click “Open” on the bottom left side of the screen.

The officer will now be able to see the referral and the reason why the traveller was referred. If the traveller was biometrically enrolled, his/her photo will appear. If the officer at Primary selected “no match” in IPIL, the Alert “Identity” will appear in SP.

To review further details on the biometrically enrolled traveller prior to conducting the fingerprint verification, click on the “Bio” tab on the left hand navigation bar.

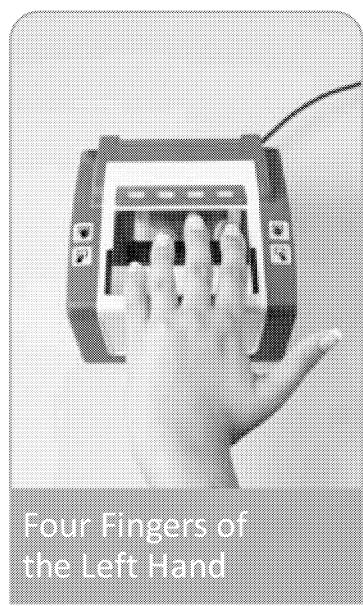
If the traveller being referred into secondary was biometrically enrolled, the fingerprint application will automatically appear when the referral is selected off the SRL. The fingerprint device will also be initiated and the officer will see a number of messages as the machine calibrates. The calibration process will take only a few seconds. The application will not appear if fingerprints are not on file for the traveller.

The first message the officer will see indicates the machine has started.

The second message the officer will see indicates that the device is being calibrated.

The third message the officer will see indicates that calibration is complete and the machine is ready to accept fingerprints.

The officer will take three images in the following order:



Four Fingers of the Left Hand



Four Fingers of the Right Hand



Two Thumbs together

To start the fingerprint capture process, select “Capture”.

The officer will see the fingerprints images of the traveller currently being captured when a hand is placed on the scanner. The officer will also see a “Capturing” message. A quality set of fingerprints will be represented by green boxes around each of the fingers/thumbs that the officer is capturing. If the prints are not sufficient quality; such as if too much pressure is being placed on the scanner, the officer will see a red box around the print. When the issue with the print is corrected, the box will turn green. This light system is mirrored on the fingerprint scanner for the traveller to see. When all boxes are green, the fingerprint scanner will beep and a message will appear indicating that the fingerprints have been successfully captured.

At any time, the officer can select “Override”; this will prompt SP to capture any quality prints and will allow the officer to move forward with the examination without all fingerprint quality indicators (the boxes) showing as green.

When both hands and thumbs have been captured, the “Verify” button will become enabled. Clicking “Verify” will allow CBSA to send the transaction to the RCMP. Within 10 seconds, a biometric result will be returned from the RCMP.

## Biometric Verification Results in SP

Message	Explanation	Action Required
<b>Match</b>	The fingerprints match the enrolment prints on file.	Continue with secondary examination.
<b>No Match</b>	The fingerprints do not match the enrolment prints on file.	Using the LiveScan device, conduct a Criminal Records Check (previously CAR-N) to confirm that the traveller is not biometrically enrolled.  Use the “Notes” function in SP to narrate the decision related to traveller processing. An auto-generated backend notification will be sent to HQ to investigate.
<b>Unable to Auto Certify</b>	The RCMP system is unable to determine whether the prints match or do not match.	This message can result if prints are not of sufficient quality. You have the option to retake and resubmit prints to the RCMP.  If the same message is returned, use existing procedures to establish identity and determine admissibility.  An auto-generated backend notification will be sent to HQ to investigate.
<b>Fingerprint related error (multiple codes)</b>	There are multiple error messages that could be returned- <u>a full list can be found here</u> .	Take action specific to that error.



## Hand Placement

In order to avoid getting an error message back from the RCMP, ensure the traveller places the correct hand down. For example; if the application indicates that the right hand is to be placed on the scanning surface, ensure the traveller does not place their left hand down on the scanning surface.

## Missing Fingerprint

In these circumstances, only capture the prints that were taken at time of enrolment. For example; if the left index finger was not captured at enrolment due to an inability to capture or temporary injury, do not capture that finger when conducting a verification. The system may indicate that too many fingers are being placed on the scanner.

Information related to fingerprint issues at the time of enrolment can be found by clicking on the “Bio” tab on the left hand navigation list.

If a traveller has a finger issue at verification that was not identified at enrolment, such as a new amputation, then this needs to be identified within the verification application. To do this, click on the finger / thumb that is not available for capture, and a red X will appear over the digit. Proceed with capturing all other available fingers and thumbs.

## Override function

If for some reason the officer cannot get a full set of prints that are accepted by the scanner, indicated by a red square around a finger(s) or thumb(s), the officer will have the ability to override quality threshold for the prints that cannot be captured. This is accomplished by clicking on the “Override” button.

Note that the override process is not instant as the scanner will capture the prints based on the current quality. The application will show the message “Capturing” when the override button is clicked, and it will take a few seconds for the prints to be captured.

## Cancel Function

If for some reason the officer wishes to cancel the fingerprint verification process prior to sending the prints to the RCMP, click on the “Cancel” button.

## 4. Secondary Processing Biometric Enrolment: Capturing Photo and Fingerprints in Support of an Application

### **Global Case Management System (GCMS) and Permit Applications**

Using GCMS, biometrics will be required in support of Study, Work and Temporary Resident Permit applications. GCMS will prompt the officer to collect biometrics for eligible travellers. Biometrics are not required in support of other applications, such as a Visitor Record; however, discretionary authority may be exercised.

In order for the biometrics to be automatically associated to the client, the application (WP, SP, and TRP) must be created in GCMS prior to capturing the traveller’s fingerprints using the LiveScan device.

In order to create an application an integrated search must first be conducted. Once the results are returned and reviewed the application can be completed.

When a permit application is initiated in GCMS, the system will automatically identify applicants who are required to provide biometric information based on the primary citizenship for the client.

Dual citizens may be afforded their application in the citizenship which provides them to the most benefit.

If an applicant’s Country of Residence (COR) is Canada, the officer may need to amend the Biometric Assessment from “Exempt-Public Policy” to “Required”, should that applicant be of a biometrically required citizenship. This is likely to occur if an applicant is flagpoling at the POE and/or has a previous application with IRCC. The biometric fee should be collected.

### **Non-Required or Discretionary Biometric Collection**

Should the officer determine that it is necessary to collect fingerprints from the applicant for the purpose of determining identity or admissibility, the officer may utilize their authority under section A16 of the IRPA. This function is completely separate from the biometric enrolment requirement under section R12.1 of the IRPA.

An officer may collect biometrics from a Non-Required applicant, should the case merit, by initiating a biometric sub-activity in an open application in GCMS. These biometrics would then be used for future verification of the traveller.

If the Biometric – RCMP activity has been cancelled or is in some other status, proceed as follows:

1. Click on the Criminality hyperlink
2. Under Related Activities, click New

3. Select “Biometric – RCMP”. Click Ctrl – S.
4. Associate the biometrics to the newly created Biometric – RCMP sub-activity

GCMS will not permit an officer to amend the Biometric Assessment from “Not Required” to “Required”.

No biometric fee should be collected for discretionary enrolment. See **Biometric Fees** for issuing a fee exemption in GCMS.

#### **Non-Biometric POEs - Redirection**

Should the applicant be biometrically required and not at a biometrically capable port of entry, the officer is unable to complete the exam and it is recommended that the applicant be re-directed.

Using the BSF505 write in the notes:

Officer is unable to complete an examination as this POE is not equipped to enrol your biometrics. As per Immigration and Refugee Protection Regulations (IRPR) 12.3(a)(i) you must present yourself to a POE where these services are available.

IRPR 41 states that unless an authorization has been given under section 23 of the Act, an officer who examines a foreign national who is seeking to enter Canada from the United States shall direct them to return temporarily to the United States if:

- (a) no officer is able to complete an examination

Should the officer be unable to redirect the applicant, the biometric “Exemption-Other” may be applied.

This decision would need to be reflected in the SP when the referral is closed. See **Closing the Loop**.

#### **Non-Biometric POEs - Entry to Complete an Examination**

Should the applicant be biometrically required and not at a biometrically capable port of entry, the officer is unable to complete the exam and it is possible to grant the applicant entry for further examination using the BSF536.

*Immigration and Refugee Protection Act (IRPA) 23 states that an officer may authorize a person to enter Canada for the purpose of further examination or an admissibility hearing.*

#### **Biometric Validity Period**

Biometrics submitted in support of an application are valid for ten years. A permit may not be issued beyond the validity of biometrics which should be treated the same as passports in terms of the relationship to validity. Just as a permit cannot be issued for a period that exceeds the validity of a passport, a permit cannot be issued that exceeds the validity of the biometrics. For example, if an applicant is applying for a work permit valid for three years, and they have biometrics valid for one year,

they would only be able to be issued a work permit for one year. In this scenario the applicant may re-enrol and pay the required fees whereupon they will have new biometrics valid for another 10 year period, or the officer can issue the permit until the end of the validity of the current biometrics and counsel the client to seek an extension in Canada.

### **Biometric Override or Exemption in GCMS**

In the event that a biometric exemption applies, or an override is required as per the OB and regulations, the officer can select from the Assessment drop down under the Biometrics column within the permit application. The override or exemption applies only to this application; it is not possible to override at the client level.

Regulations 12.1(2) and 12.7 (1) provide exemptions from biometric enrolment. 12.2 (1) Section 10.01 of the Act does not apply to:

- (a) A person who is under the age of 14;
- (b) A person who is over the age of 79, unless that person makes a claim in Canada for refugee protection;
- (c) A person who makes an application or request referred to in any of paragraphs 12.1(e) to (i) if they are
  - (i) Her Majesty in right of Canada and any member of the Royal Family, or
  - (ii) A national of the United States;
- (d) a person who makes an application referred to in paragraph 12.1(h) or (i) if they are (i) in Canada and have made a claim for refugee protection that has not yet been determined by the Refugee Protection Division,
  - (ii) In Canada and have had refugee protection conferred on them, or
  - (iii) A member of the Convention refugees abroad class or a member of a humanitarian-protected persons abroad class;
- (e) A person who is a head of state or head of government who makes an application or request referred to in any of paragraphs 12.1(d) to (i);
- (f) A person who seeks to enter Canada in the course of official duties as a properly accredited diplomat, consular officer, representative or official of a country other than Canada, of the United Nations or any of its agencies or of any intergovernmental organization of which Canada is a member;
- (g) A person who is a family member of a person referred to in paragraph (f);

(h) A person who holds a valid United States entry visa, is destined to or returning from that country and seeks to enter Canada for a period of less than 48 hours and who (i) is travelling by transporter's vehicle to a destination other than Canada, or

(ii) Is transiting through or stopping over in Canada for refuelling or for the continuation of their journey in another transporter's vehicle;

(i) A foreign national referred to in paragraph 7(2) (a) who makes an application for temporary resident status as a member of the visitor class; or

(j) A foreign national referred to in subsection 7.01(1) who is the holder of an electronic travel authorization and makes an application for temporary resident status as a member of the visitor class.

Regulation 12.8 allows for a full exemption (fingerprints and photograph) or partial exemption (fingerprints or photograph), as the case may be, if the collection is impossible (enrolment system is unavailable, amputations, permanent injury) or not feasible (the situation is urgent, medical condition). Note that if the photo in LiveScan is not taken, the biometric enrolment will not take place; the fingerprint result will not appear in GCMS. As such, a biometric enrolment with no photo is not permitted. See table.

The exemption should be on a case-by-case basis (for the application in process), depending on the temporary or permanent nature of the situation. If the officer selects Exemption, GCMS will not prompt the officer to collect the biometric fee (however, other permit fees still apply).

### Biometric Requirements in GCMS (Including Exemptions and Override)

Assessment	Explanation	Action Required
<b>Required</b>	Biometric enrolment is required to process this application.	Collect biometrics using the Immigration workflow on the LiveScan device
<b>Not Required</b>	Biometric enrolment not is required in support of this application	Continue with permit processing *see note regarding COR in <b>Global Case Management</b>

		<b>System (GCMS) and Permit Applications</b>
<b>Complete</b>	Biometric enrolment has taken place; use this to manually update the status should GCMS not automatically	Ensure that biometrics have been associated to the application prior to manually updating the status of the application to complete
<b>Exempt- Diplomat or Official</b>	Applicant is seeking to enter Canada in the course of official duties as a properly accredited diplomat, consular officer, representative or official of a country other than Canada, of the United Nations or any of its agencies or of any intergovernmental organization of which Canada is a member, or is a family member of one of them	Select “Exempt- Diplomat or Official”
<b>Exempt- Other</b>	<p>When it is not possible or not feasible to collect biometrics, including:</p> <p>Applicant is seeking to enter at a non-biometric POE and redirection (or other) is not available</p> <p>The officer is unable to collect biometrics due to operational pressures</p> <p>The officer is unable to collect biometrics due to a technical failure (example,</p>	Select “Exempt- Other” At sites with multiple LiveScan devices, consideration should be given to using a second device should the first not be accessible. In the “Other Description” write “Impossible/Not Feasible” In the “Note” tab enter the explanation for exemption. The note should contain a reference to IRPR 12.8.

	LiveScan not accessible).	
<b>Override</b>	<p>The officer is refusing the permit without biometric collection. Note, it is recommended that biometrics be captured for all applications.</p> <p>The officer is required to finalize the application without the biometric results; however, biometrics can still be captured. Once the biometric result is returned in LiveScan, the officer can query the BIO# in the GCMS Holding Tank and will need to manually associate the biometrics to the permit</p> <p>The officer is able to collect biometrics; however, due to a technical failure (example, AFIS is down) the result is not received.</p> <p>The officer is refusing the permit without biometric collection. Note, it is recommended that biometrics be captured for all applications.</p>	<p>Select Override and include a note in GCMS as to the reason for the Override. The biometric result should be reviewed as it did not form part of the decision to issue/refuse the permit; follow-up may be required. If the permit is finalized prior to receipt of the biometric result, the biometric will need to be manually associated from the <b>Biometrics Holding Tank</b>.</p> <p>For a permit refusal, Override will need to be applied only when biometrics are not captured. Select Override and include a note in GCMS as to the reason for the non-collection.</p>
<b>Exempt- Ref Claim/Protected</b>	Applicant making an application for a study permit or a work permit and is a person in Canada who has made a claim for refugee protection that has not yet	Select “Exempt- Ref Claim/Protected”

	<p>been determined by the Refugee Protection Division, a person in Canada on whom refugee protection has been conferred, or a person who is a member of the Convention refugees abroad class or a member of a humanitarian-protected persons abroad class</p>	
<b>Exempt- Pub Pol (In-Canada)</b>	<p>Applicant making an application from in-Canada (not including at a POE)</p>	<p>There is a Public Policy in affect for applications made in Canada which exempts applicants from biometric enrolment. The Public Policy applies not to where a person is located physically, but to where the application can be made (in-Canada/Overseas). If a person is already in Canada and has made an application online to IRCC overseas then they are not exempt from biometrics as per the Public Policy (only applications eligible to be made-in Canada benefit).</p> <p>Select “Exempt- Pub Pol (In-Canada)” This should not be used at a POE.</p>

## 5. LiveScan

Record the travellers Unique Client Identifier (UCI) and proceed to the LiveScan device. The officer will use the LiveScan devices to capture the traveller's biometrics; the biometric results will be returned from the RCMP in both LiveScan and GCMS. The officer will likely prefer to read the results in GCMS, rather than returning to the LiveScan device.

LiveScan has the functionality to omit a photograph; however, doing so will prevent biometric enrolment and future verification. A partial enrolment (no photo) is not permitted.

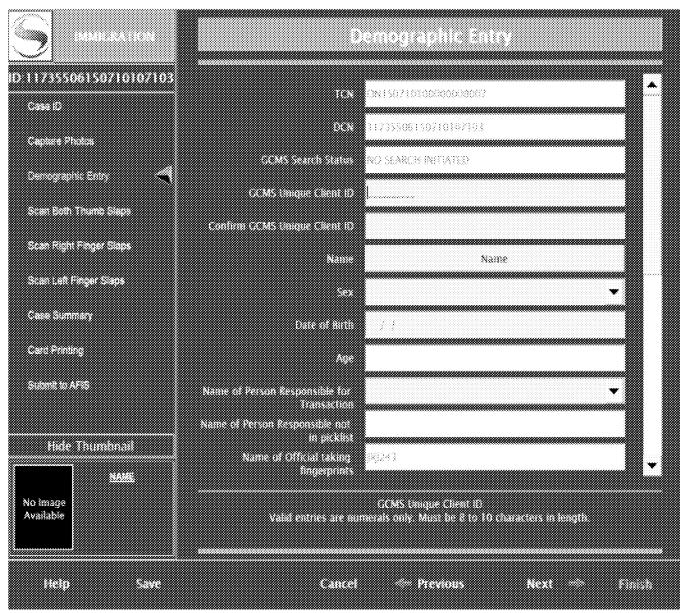
The RCMP has up to two hours to return the biometric result; the application should not be finalized prior to receipt of the result.

## LiveScan Immigration Workflow

Log onto LiveScan and select the “Immigration” workflow. Record the Document Control Number (DCN) for troubleshooting with the LiveScan device.

Select “Unfreeze” and capture the traveller’s digital photograph. Use the auto-centre function where possible. The photograph should be captured with the traveller facing straight, on a light background and not smiling.

Enter the UCI twice and select “yes” to auto populate the mandatory fields from GCMS. Should the officer note an error in the traveller’s biographical data, correct the error in GCMS, not in the LiveScan device. Incorrect biographical data will not affect the biometric result returned to the CBSA from the RCMP.



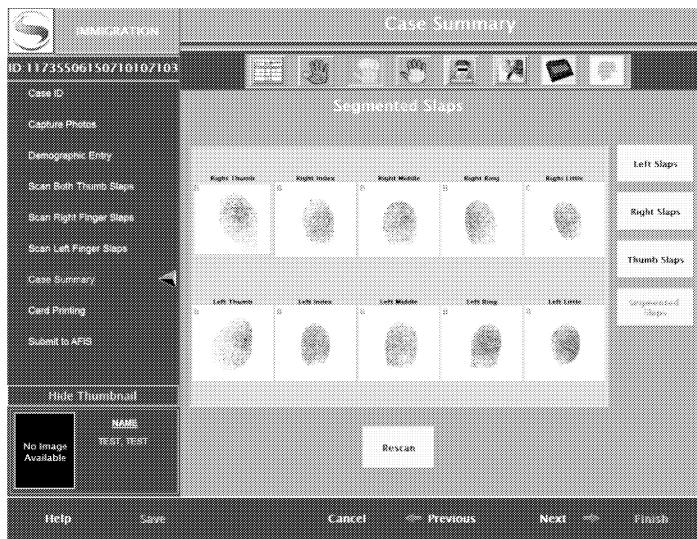
Do not use the username pick list, rather, select “not in list” and manually enter the first initial and last name or username of the officer collecting the biometrics.

Capture the traveller’s fingerprints; thumbs, right slaps, left slaps.

If the slaps are low quality, LiveScan prompt a rescan.

If the officer does not rescan and prints are low quality, the officer will be asked to provide a reason from the dropdown menu. If the officer selects “other”, manually type in the reason in the description line.

The quality of each print can be seen in the Case Summary.



Once the officer is satisfied, finalize the case and submit to the RCMP. The officer can now return to GCMS processing as the results will be available in GCMS. The CBSA-RCMP Service Level Agreement states that the RCMP has up to two hours to provide the biometric query results. The permit in GCMS should not be finalized without the results.

## Biometric Fees

Fees must be noted as paid in GCMS prior to issuing any permit. The biometric fee is not considered a processing fee like any other cost recovery fee, but is rather a fee for service and is not refunded should the application for a permit be refused.

Fees	Menu	New	Delete	Query	Insufficient fees notice
Status	Fee	Payment #	Amount Required	Amount Paid	Code
Outstanding	Biometrics		\$85.00	\$0.00	
Outstanding	Work Permit		\$155.00	\$0.00	

Fees can be exempted using the appropriate exemption code.

Exemption Fee Code	Explanation
BTE	1 in 10 policy; applicant had valid biometrics on file. *Note, GCMS will not automatically exempt the applicant.
B10	R315.1(3)(b)  Members of a group of three or more performing artists and their staff who apply at the same time and place for a work permit.
B11	R315.1(3)(a)

Applicant and family members who submit their applications at the same time and place.

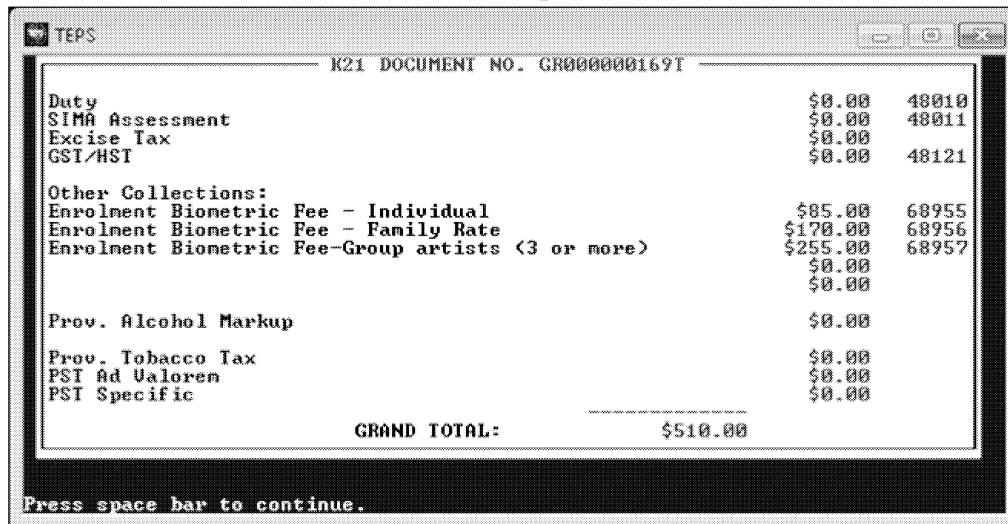
## Travellers Entry Processing System (TEPS)

Enrolment Biometric Fees are active in TEPS for collection by the following revenue codes:

68955 – Enrolment Biometric Fee – Individual- \$85

68956 – Enrolment Biometric Fee – Family Rate- \$170

68957 – Enrolment Biometric Fee – Group artists (3 or more) - \$255



K21 DOCUMENT NO. CR0000000169T		
Duty	\$0.00	48010
SIMIA Assessment	\$0.00	48011
Excise Tax	\$0.00	
GST/HST	\$0.00	48121
<b>Other Collections:</b>		
Enrolment Biometric Fee – Individual	\$85.00	68955
Enrolment Biometric Fee – Family Rate	\$170.00	68956
Enrolment Biometric Fee-Group artists (3 or more)	\$255.00	68957
	\$0.00	
	\$0.00	
Prov. Alcohol Markup	\$0.00	
Prov. Tobacco Tax	\$0.00	
PST Ad Valorem	\$0.00	
PST Specific	\$0.00	
<b>GRAND TOTAL:</b>	<b>\$510.00</b>	

Press space bar to continue.

Biometric fees do not automatically populate in TEPS; manual entry is required.

### **Non-Compliance: Biometrics Fee or Application (Biometric Enrolment)**

As outlined in A10.01 and R12.1 (application type) and R315.1 (fees) certain applicants are required to submit their biometrics and pay the associated fees.

If an applicant refuses to provide their biometrics and/or pay the associated fee, they are not in compliance with the requirements of the Act in relation to the application. An officer may refuse the permit application for non-compliance.

Once the permit application is refused the traveller would then be inadmissible for not being in possession of the required document (permit) as per A20(1)(b).

An A44(1) report may be written as the traveller is inadmissible under 41(a) for 20(1)(b). The minister's delegate may make a removal order under R228 (1)(c)(iii).

## Biometric Results GCMS

Once the results of the biometric enrolment have been returned by the RCMP, the biometrics will be automatically be associated to the permit application in GCMS assuming the application was created prior to the biometric enrolment.

In order to verify if the biometrics have been associated to the application, proceed to the Admissibilities-Criminality tab. In the sub-activity window, the Biometrics-RCMP status should display a “Received - ...” status. A status of “Not Started” means that biometrics have not yet been associated.

Clients & Parties								Eligibility	Admissibilities	Other Reqs	Correspondence	Notes	Finalize Application	Fees	Paper								
Security	HIRV	Criminality	Organized Crime	Medical	Misrepresentation	Ministerial Relief	Info Sharing																
Admissibility - Criminality																							
UCI #	Family Name	Given Name	Type	Status	Validity Date	Status Update	Status Update																
1103257284	BACON	CRISPiER	Criminality	In Progress		T67897213	2018/05/03...																

Sub Activities							
UCI #	Family Name	Given Name	Type	Status	Validity Date	Biometrics #	Notes
1103257284	BACON	CRISPiER	Biometrics - RCMP	Not Started			

Only once the biometrics have been associated, the permit application can be Approved. Setting the final assessment to Approved prior to the biometrics being associated to the application will prevent future biometric verification from occurring.

The biometrics results should be reviewed to assess results and for accuracy.

Sub Activities							
UCI #	Family Name	Given Name	Type	Status	Biometrics #	Notes	Actions
1103257284	BACON	CRISPiER	Biometrics - RCMP	Received - IMM	IMMON152475061145297620		

Once the application is approved, the biometrics are transmitted to the verification database allowing the clients biometrics to be verified in the future.

### Biometric Results from the RCMP (As Displayed in GCMS)

Result	Explanation	Action Required
Received-CPIC	The fingerprints are a match to an existing print in the CPIC database.	Query CPIC using the FPS number returned in the Biometrics-RCMP hyperlink in

		the Admissibilities-Criminality Sub Activities Window.
<b>Received-REF</b>	The fingerprints are a match to an existing print in the AFIS Refugee database.	Query the UCI returned in the Biometrics-RCMP hyperlink in the Admissibilities-Criminality Sub Activities Window.
<b>Received-REF/CPIC</b>	The fingerprints are a match to an existing print in the CPIC and AFIS Refugee database.	Query CPIC using the FPS number returned in the Biometrics-RCMP hyperlink in the Admissibilities-Criminality Sub Activities Window.  Query the UCI returned in the Biometrics-RCMP hyperlink in the Admissibilities-Criminality Sub Activities Window.
<b>Received- IMM/CPIC</b>	The fingerprints are a match to an existing print in the AFIS Immigration and CPIC database.	Query CPIC using the FPS number returned in the Biometrics-RCMP hyperlink in the Admissibilities-Criminality Sub Activities Window.  Query the IID returned in the Biometrics-RCMP hyperlink in the Admissibilities-Criminality Sub Activities Window. This will return any UCI associated to this fingerprint.
<b>Received-IMM</b>	The fingerprints are a match to an existing print in the Immigration database.	Query the UCI returned in the Biometrics-RCMP hyperlink in the Admissibilities-Criminality Sub Activities Window.
<b>Received-NRT</b>	The fingerprints are not a match to any existing print in the AFIS database.	Continue with permit processing.
<b>Received-No Fingerprints</b>	Fingerprints were of insufficient quality or no fingerprints were provided.	Partial enrolment with no fingerprints- Continue with permit processing.

		Enrolment with poor quality.
<b>Received- Poor Quality</b>	Fingerprints were off insufficient quality.	Enrolment with poor quality.

### Results from the RCMP (As Displayed in LiveScan)

Result	Explanation	Action Required
<b>ACKT</b>	Acknowledgement that the case has been received by the RCMP.	
<b>SRE</b>	These are the final results.	Click on the SRE icon to obtain details as required. Results are also displayed in GCMS.
<b>ERRT</b>		To obtain details on the cause of the error click on the ERRT icon. The biometrics will not be processed until the error has been corrected and the case is resubmitted.

## 6. Immigration Information Sharing

There is no requirement to conduct an international immigration information sharing request in GCMS as it pertains to applicants in support of their biometric enrolment; however, an officer may submit a request at their discretion should they have reasonable grounds to suspect that the applicant has an immigration history with one of the Migration Five (M5) partners. It should be noted that the permit should not be issued without the biometric result from the RCMP and from any subsequent information sharing request.

### Biometrics Holding Tank

In certain situations, the biometrics will not automatically be associated to the application in GCMS and will be stored in the Biometric Holding Tank. The holding tank can be searched for unassociated biometrics which can be manually associated to the permit application.

The screenshot shows the GCMS application search interface. The 'IMM' tab is selected. In the 'Organizations & Entities' section, a dropdown menu is open, showing options like 'Fee Allocations', 'Exceptions', 'IMM Correspondence', 'Payments', 'Medical File Management', 'File Management', 'Households', 'Country Tables', 'Biometrics', 'OCN', and 'LMIA Exempt'. The 'Biometrics' option is highlighted with a red box.

Biometrics can be searched for using  $\text{Biometric \#} \neq 0$  in the Biometric # field and: The UCI OR Family name, Given name and DOB OR DCN (RCMP #).

Biometrics List

Biometrics #	Family Name	Given Name(s)	DOB	Result #	Result Type	Date
$\text{Biometrics \#} \neq 0$	TEST	TEST	1980/01/01			

Details Notes Photo

Details

Enrolment      RCMP Results      FBI Results

IRCC #:	New IID: <input type="checkbox"/>	IID: <input type="text"/>	FBI #: <input type="text"/>
Biometrics #: <input type="text"/>	New FPS #: <input type="checkbox"/>	FPS #: <input type="text"/>	Name(s): <input type="text"/>
Location: <input type="text"/>	Ref #: <input type="text"/>	Narrative: <input type="text"/>	Search Date: <input type="text"/>
Date: <input type="text"/>	UCI/FOSS ID: <input type="text"/>	RCMP #: <input type="text"/>	International Re
By: <input type="text"/>	Name(s): <input type="text"/>	Narrative: <input type="text"/>	Reference #: <input type="text"/>
Fingerprint Exceptions: <input type="text"/>			
Fingerprint Quality: <input type="text"/>			
UCI/FOSS ID: <input type="text"/>			

Once the IMM biometrics # is located in the holding tank, it can be manually associated to the permit application by copying the Biometric #

Biometrics #	Result #	Result Type	RCMP #	Status
IMMON152475061145297620			152468459184780168...	Received - IMM

Proceed to the permit application, Admissibilities-Criminality and paste the Biometric # into the Biometric # column in the “Not Started” Biometric – RCMP sub-activity. Click Ctrl – S to save.

Sub Activities

UCI #	Family Name	Given Name	Type	Status	Biometrics #
1103257284	BACON	CRISPY	Biometrics - RCMP	Not Started	<input type="text"/>

The biometric is now associated and the status will be automatically updated and the permit can now be completed.

Sub Activities	UCI #	Family Name	Given Name	Type	Status	Biometrics #
	1103257284	BACON	CRISPY	Biometrics - RCMP	Received - IMM	IMMON152475061145297620

## 7. Closing the Loop

Subsequent to OB [PRG-2018-43](#) Traveller Examination Results – Closing the Loop for Immigration Referrals all immigration referrals must be closed in SP and a record reflecting the interaction must be made.

Once the referral is closed, this traveller encounter, including verification results and document issuance, will be made available in Passage History (PH).

## 8. Questions or Additional Information

**Questions** regarding the use of biometrics at the Agency can be sent to

### Links

[Biometrics Toolkit on Atlas](#)

[Operational Bulletin PRG-2018-29 Expansion of the Biometrics Program - Coming into Force 1](#)

[Operational Bulletin PRG-2018-43 Traveller Examination Results – Closing the Loop for Immigration Referrals \(Land Mode\)](#)

[Immigration and Refugee Protection Act](#)

[Immigration and Refugee Protection Regulations](#)

[Enforcement Manual 12 Search, Seizure, Fingerprinting and Photographing](#)

[People Processing Manual Chapter 7: Temporary Resident Biometrics Program](#)

[Biometrics Wiki](#)

[GCMS Wiki](#)

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## ENF 12 Search, Seizure, Fingerprinting and Photography

### Updates to chapter

#### **Listing by date:**

##### **Date: 2018-10-25**

Section 12.2, Privacy notice, describes individuals who are required to submit fingerprints and photographs to the Canada Border Services Agency, legislative authority and the purpose of collecting fingerprints and photographs, retention and disposal standards, and access to information.

##### **Date: 2013-04-01**

3.1 The new CBSA forms *BSF 698: Notice of Seizure for seizures of all travel and/or identity document(s)* and *BSF 699: Application for the Return of seized identity document(s)* were added to the list of forms

9. This section was amended to reflect use of new CBSA form BSF 698: Notice of Seizure for seizures of all travel and/or identity documents under subsection 140(1) of IRPA. The section now also includes instructions for use of new CBSA form BSF 699 Application for the Return of seized identity document(s).

Additional changes were made to improve the flow of the section.

11. This section was amended to reflect use of new CBSA forms BSF 698 and BSF 699 when returning seized documents. Contact information for the document centre was also updated.

##### **Date: 2009-03-16**

7.1 The section has been amended to better reflect the fact that searches pursuant to A139 relate to persons seeking to come into Canada.

7.2 A subsection on searches incidental to arrest has been added.

7.3 The section now includes a link to the Customs Enforcement Manual (EN) for additional information.

7.5 The table for search levels previously found at 7.6 has been modified. The reference to the Minister's Delegate has been replaced by supervisor to reflect policy.

7.6 Contains the information previously found at 7.7, Search incidental to arrest. Additional information has been included concerning searches beyond Level 1 and the Search form (IMM 5242).

7.7 Includes information previously found at 7.5. References to CBSA – customs and CBSA – immigration have been eliminated.

7.8 A link to the CBSA Use of Force/Officer Safety policy has been incorporated.

7.10 References to Level 2 searches and searches incidental to arrest have been integrated.

7.11 The reference to CBSA – customs has been removed.

7.13 A reference to the Customs Act has been added.

8. References to CBSA immigration officers have been replaced throughout the section.

## **ENF 12 Search, Seizure, Fingerprinting and Photography**

9.1 The description of the authorities has been modified to reflect CIC and CBSA instruments of delegations.

11.14 The address where seized documents should be sent to be disposed of has been changed.

11.15 Sending documents for analysis has been moved from point 11.14 to 11.15. A link has been added to the correct address for each region. Precisions have been added on the information to join to a request for analysis.

12.7 Typographical errors have been corrected.

Other minor changes have been made throughout the chapter.

**Date: 2006-01-25**

Numerous changes have been made throughout this chapter and any previous version of it should be discarded. Of particular note, amendments have been made to reflect the new designation of officers and delegation of authority resulting from the Citizenship and Immigration Canada (CIC) transfer of port of entry (POE) and enforcement functions to the Canada Border Services Agency (CBSA). Resulting changes to CIC's and the CBSA's responsibilities with respect to search, seizure, fingerprinting and photographing have been incorporated throughout the chapter.

2004-05-18

### **Requirement to input FPS numbers in FOSS**

In order to further streamline the administration of fingerprints, all cases where a person has been previously fingerprinted for immigration purposes and a Fingerprint (FPS) number exists, the FPS number must be entered in FOSS. The FPS number must be included in any subsequent request to the RCMP for additional checks or for follow-up information.

Quoting the FPS number is the certified means to identify an individual. Referencing the Fingerprint (FPS) number enhances a fingerprint query, facilitates turnaround times and reduces the need to duplicate fingerprinting.

**2003-09-26**

ENF 12 – Search, Seizure, Fingerprinting and Photography – has been updated to reflect the authorities and procedures that govern how and when an immigration immigration officer may seize documents and vehicles, conduct searches and take fingerprints and photographs of persons.

Major changes to this chapter includes:

Section 3 describes all relevant sections of the *Immigration and Refugee Protection Act* (IRPA), and Regulations, A140(2), which states that a document or a thing that is detained or seized under the Customs Act is no longer considered in the course of post.

Hyperlinks: Section 3 provides hyperlinks to other pertinent Sections of Law, including Section 99 and 101 of the Customs Act, which describes a Customs inspectorsinspectorCustoms inspector powers to examine the mail and detain goods, the importation of which is prohibited, controlled, or regulated by an Act of Parliament. Section 108 of the Customs Act describes disclosures of information by CCRA to CIC for the purposes of enforcing IRPA. Section 3 provides Charter protection against unreasonable search and seizure 8(2)(3) of the Privacy Act.

Section 4 describes the instruments and delegations of authorities as they stem from sections A6(1) and (2) of IRPA.

Section 7 details what constitutes lawful search and seizure while providing Charter protections.

Section 7.2, Section 7.3, Section 7.4, and Section 7.5 describe reasonable grounds to search; when searching in detention; right to counsel when a search constitutes detention, and the

## **ENF 12 Search, Seizure, Fingerprinting and Photography**

authority under A139(1)(b) to search any person seeking to enter Canada, including Canadian Citizens.

Section 7.6 describes the three types of Search: Level 1, Preliminary search; Level 2, Frisk search, and Level 3, Disrolement search, and the required consent from a Supervisor.

Section 7.7, Section 7.8, Section 7.9 and Section 7.10 describe searches incidental to an arrest; officer safety in conducting searches; general search procedures, and completing Search form (IMM 5242B).

Section 7.11, Section 7.12, Section 7.13, Section 7.14 , Section 7.15 and Section 7.16 describe specific instructions pertaining to conducting preliminary and full examination searches at Ports of Entry; searching luggage; conducting personal searches (including frisk searches and disrolement searches). Section 7.16 describes information pertaining to search and seizure of a vehicle.

Section 8 describes Search Warrant procedures including Charter considerations; when and how to apply for a Search Warrant; information required to obtain a Search Warrant, and procedures pertaining to the execution of a Search Warrant. Specific instructions pertaining to proper protocol when conducting searches; protection of evidence, and reports required following the execution of a search warrant is described in Section 8.8, Section 8.9, and Section 8.10. Section 9 updates Seizure Authority relating to Solicitor-client privilege. Caution should be taken to avoid conflict of confidentiality of solicitor-client privilege when seizing documents.

Section 9.4, Section 9.5, Section 9.6, Section 9.7, Section 9.8, Section 9.9, Section 9.10, Section 9.11 describe seizing documents both domestically and internationally; seizing documents from refugee claimants; seizing vehicles, and procedures for the notice and reporting of seized vehicles.

Section 10.1, Section 10.2, and Section 10.3 describe mail search and seizures including Customs procedures for international mail; and courier shipments.

Section 10.4, Section 10.5, Section 10.6, Section 10.7 and Section 10.8 describe the responsibilities of Immigration immigration officers pertaining to mail seizures, documenting and tracking seizures; security, storage and labelling seized items; split seizures, and partial seizures.

Section 10.9, Section 10.10, and Section 10.11 describe notification of the owner in event of full or partial mail seizures; returning items to the Customs process, and release of information in accordance to section 108 of the Customs Act.

Section 11 describes the disposition of seized objects as per the custody and protection of evidence, liability for damage of seized property, and return of seized objects as per R253.

Section 11.6, and Section 11.7 describe application procedures for the return of items in exchange for security as per R245 R245R254. This includes information on estimating market value of a seized vehicle or object. Section 11.7 provides application information by a lawful owner for the return of seized items.

Section 11.8, Section 11.9, Section 11.10, Section 11.11, and Section 11.12 describe conditions under which a seized vehicle may be returned or disposed of, and the forfeiture of security under R254(2)(b).

Section 11.13 and Section 11.14 describe conditions under which fraudulent documents can be disposed of.

Section 12 describes the Authority to Fingerprint. This section also describes the three (3) fingerprint forms used by immigration officers; the C-216, C-216C, and the introduction of the C-216R (refugee fingerprint form). Section 12 also describes the procedures for taking "ink roll" paper prints, and introduces procedures for the LiveScan automated fingerprint system that transmits fingerprint data electronically to RCMP/AFIS. The LiveScan User Guide and Standard Operating Procedures will be posted on the Web.

# ENF 12 Search, Seizure, Fingerprinting and Photography

## 1. What this chapter is about

This chapter describes the authorities and procedures that govern how and when CBSA and CIC officers may seize documents and vehicles, conduct searches and take fingerprints and photographs of persons.

## 2. Program objectives

Officers are authorized to conduct searches and seizures, and take fingerprints and photographs for the following purposes:

- CBSA officers: to confirm the identity of persons seeking entry to Canada
- CBSA and CIC officers: to ensure compliance with the Act and Regulations;
- CBSA and CIC officers: to seize documents and other articles that may be used for enforcing the Act and the Regulations, including evidence for prosecutions;
- CBSA and CIC officers: to prevent the misuse of documents that were fraudulently or improperly obtained;
- CBSA officers: to seize vehicles and assets that may have been used in relation to an immigration offence;
- CBSA and CIC officers: to return and dispose of items to the lawful owners.
- CBSA officers: incidental to arrest.

## 3. The Act and Regulations

The authority for an officer to search, seize, and take fingerprints and photographs is found in the following sections of the *Immigration and Refugee Protection Act* (IRPA) and Regulations.

Authority for search and seizure	Section of Act or Regulations
Authority for an officer to: <ul style="list-style-type: none"><li>• board and inspect any means of transportation bringing persons to Canada;</li><li>• examine any person carried by that means of transportation and any record or document respecting that person;</li><li>• seize and remove any record or document to obtain copies or extracts;</li><li>• hold the means of transportation until the inspection and examination are completed.</li></ul>	A15(3)
Authority for an officer to require or obtain from a permanent resident or a foreign national who is arrested, detained or subject to a removal order any evidence, including photographic, fingerprint or otherwise, that may be used to establish their identity or compliance with the Act.	A16(3)
Authority and powers of a peace officer for authorized officers, including those set out in sections 487 to 492.2 of the <i>Criminal Code</i> , to enforce IRPA, including	A138(1)

## ENF 12 Search, Seizure, Fingerprinting and Photographing

provisions respecting the arrest, detention or removal from Canada of any person.	
Authority to search any person seeking to come into Canada, including their luggage and personal effects, and the means of transportation, if the officer believes, on reasonable grounds, that the person: <ul style="list-style-type: none"> <li>has not revealed their identity or has hidden documents relevant to their admissibility, or;</li> <li>has committed or possesses documents that may be used in the commission of an offence in relation to smuggling and trafficking in persons or other contraventions of the Act in relation to documents.</li> </ul>	A139(1)
Requirement that a search of a person be conducted by a person of the same sex.	A139(2)
Authority for an officer to seize and hold any means of transportation, document or other thing if the officer believes, on reasonable grounds: <ul style="list-style-type: none"> <li>that it was fraudulently or improperly obtained or used; or</li> <li>that seizure is necessary to prevent its fraudulent or improper use or to carry out the purposes of this Act.</li> </ul>	A140
A document or a thing that is detained or seized under the <i>Customs Act</i> is no longer considered in the course of post for the purposes of the <i>Canada Post Corporation Act</i> .	A140(2)
Authority for the detention, seizure or forfeiture of security provided by a transporter and any vehicle or other prescribed good if the transporter fails to comply with an obligation under this Act.	A148(2)
Requirement for an officer who seizes a thing under A140(1) to place it without delay in the custody of the CBSA or CIC.	R252
Requirement for an officer following a seizure of a thing under A140(1), to make reasonable efforts to identify any person who is the lawful owner and give notice of and reasons for the seizure.	R253(1)
Authority to return or dispose of a thing seized under A140(1).	R253(2)
Authority for a transporter to hold prescribed passenger documentation where there are reasonable grounds to believe that the documents may not be available for examination by an officer at a port of entry.	R260(1)
Authority to continue to detain a prescribed good seized under A148(2) until a transporter complies with its obligations or has its obligations discharged.	R285
Requirement to give notice of seizure with respect to the object seized under A148(2).	R286(1)
Authority to return or dispose of a thing seized under A148(2)	R286(2)

Provision	Act section number
CBSA officer powers to examine the mail and to detain goods, the importation of which is prohibited, controlled, or regulated by any Act of Parliament. For further information, go to: <a href="http://laws.justice.gc.ca/en/C-52.6/">http://laws.justice.gc.ca/en/C-52.6/</a>	Sections 99 and 101 <i>Customs Act</i>
Charter protection against unreasonable search and seizure. For further information, go to <a href="http://laws.justice.gc.ca/en/charter/">http://laws.justice.gc.ca/en/charter/</a>	Section 8, <i>Charter of Rights and Freedoms</i>
Requirement for an investigative body to make a written request for information which specifies the purpose and describes the information to be disclosed. For further information, go to <a href="http://laws.justice.gc.ca/en/P-21/95414.html">http://laws.justice.gc.ca/en/P-21/95414.html</a>	Section 8(2)(e) <i>Privacy Act</i> .
The Canada Post Corporation Act provides that international mail arriving in Canada that contains or is suspected to contain anything, the importation of which is prohibited, controlled or regulated under the Customs Act or any other Act of	Section 42 <i>Canada Post Corporation Act</i>

## ENF 12 Search, Seizure, Fingerprinting and Photographing

Parliament, may be detained and is no longer described as being "in post".  
(<http://laws.justice.gc.ca/en/c-10/21397.html>)

### 3.1. Forms

The forms required are shown in the following table.

Form title	Number
Investigator's Notebook	IMM 5104B
Notice of Seizure of Identity Document(s)	BSF 698E
Application for the Return of Seized Identity Document(s)	BSF 699E
Notice of Seizure of Identity Document(s)	BSF 698E-M
Application for the Return of Seized Identity Document(s)	BSF 699E-M
Notice of Mail Seizure Under Subsection 140(1) of the Immigration and Refugee Protection Act	IMM 5079B
Search	IMM 5242B
Notice of Seizure	IMM 5265B
Notice of Mail Seizure	IMM 5079B
Record of Examination/Seizure of Documents from International Mail and Courier Services	IMM 5369B
Document Transit and Receipt	ADM 2491B
Information to Obtain a Search Warrant Form 1	Appendix A
Warrant to Search Form – 5	Appendix C
Report to a Justice Form – 5.2	Appendix E
Fingerprint Form	C-216
Fingerprint Form	C-216C

### 4. Instruments and delegations

The Minister of Citizenship and Immigration and the Minister of Public Safety designate persons or classes of persons to carry out any purpose or provision cited in the *Immigration and Refugee Protection Act*. These designations and delegations stem from A6(1) and A6(2). They are further described by the Instruments and are housed in IL 1. Peace officers are thus empowered to carry out any provisions, legislative or regulatory, on behalf of the Minister.

The instruments specify authorities geographically and are to be read regionally, nationally or internationally in accordance with the physical location of the officer.

To identify specific delegations and designations see IL 3.

### 5. Departmental policy

Nil.

### 6. Definitions

Nil.

# ENF 12 Search, Seizure, Fingerprinting and Photography

## 7. Procedure: Searches

### 7.1. Charter rights respecting searches

The *Canadian Charter of Rights and Freedoms* protects the basic rights of all persons in Canada, including foreign nationals. Sections 8 through 10 of the Charter govern an officer's authority to conduct searches and seizures.

#### Protection against unreasonable search and seizure

Section 8 of the Charter provides that everyone has the right to be secure against unreasonable search or seizure.

Before conducting a search at a port of entry (POE), A139 requires that an officer must believe on reasonable grounds that the person:

- has not revealed their identity;
- has hidden documents relevant to their admissibility; or
- has concealed documents that may be or have been used for the purpose of smuggling or trafficking of persons into Canada or for other contraventions under the Act and Regulations.

#### Searching Incidental to Arrest

When performing a search incidental to arrest, A139 does not apply. Authority to search incidental to arrest is governed by common law. Please refer to section 7.6 for searching incidental to arrest.

### 7.2. Reasonable grounds to search

Case law has established that "reasonable grounds" is greater than mere suspicion or conjecture but less than the balance of probabilities. Reasonable grounds are grounds that, due to certain elements, facts, circumstances or available information, would lead an informed and experienced officer to believe that a violation of the *Immigration and Refugee Protection Act* or its Regulations may have occurred or may occur.

For example, an officer may believe that an undocumented refugee claimant, who is under examination, had a travel document when boarding the aircraft, as it would have been required by the airline. This circumstance may constitute reasonable grounds to do a baggage search and a personal search. However, an officer who suspects that a foreign national, seeking entry to Canada as a temporary resident, intends to work without authorization – even though the foreign national has given consistent answers to the officer's questions – does not have reasonable grounds to conduct a baggage or personal search. In this instance, mere suspicion does not constitute reasonable grounds. The officer would require other grounds to support a search, such as a past history of untruthfulness or working without authorization and some indication that an immigration violation will occur.

#### Incidental to Arrest

In common law, a peace officer may carry out a search of a person who has been lawfully arrested and the existence of reasonable and probable grounds is not a prerequisite to the existence of such a power.

### 7.3. When search is detention

Section 9 of the Charter grants all persons in Canada the right not to be arbitrarily detained or imprisoned. When an involuntary personal search is being conducted, the person is considered to

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be detained because they cannot refuse to submit to the search and are not free to leave. The test of *reasonable grounds*, when met to justify search and seizure, is also met to justify detention for the purpose of that search and seizure.

Search of the baggage of a person seeking entry to Canada is not considered to be a detention. A full body search of a person (disrobing) is considered to be a detention. A disrobing search should rarely be required.

More information on arresting and detaining persons may be found in ENF 7, Investigations and Arrests, as well as in the Customs Enforcement Manual Part 6, Chapter 6 – Searches and Enforcement Actions – Persons.

### 7.4. Right to counsel when search constitutes detention

Section 10 of the Charter requires that all persons being arrested or detained (including persons who are submitting to any type of involuntary personal search) be advised of the reason for the detention and of their right to retain and instruct counsel without delay.

An officer conducting an involuntary personal search is required to read the following to the person being searched:

“I have reasonable grounds to believe that you are carrying evidence or documents on or about your person and I am detaining you for the purposes of a personal search as authorized by section 139 of the *Immigration and Refugee Protection Act*. Do you understand?”

It is my duty to inform you that you have the right to retain and instruct counsel without delay. If you cannot afford counsel you may have access to legal aid counsel. In any event, you have the right to immediate advice from legal aid duty counsel. Do you wish to exercise this right?”

### 7.5. Types of search

There are two distinct situations where officers will conduct a search; searching without arresting and searching incidental to arrest.

A preliminary search at the POE involves the examination of all belongings that are with the person in the examination area, including purses, briefcases, baggage, personal effects and any vehicle. This examination is for the purpose of detecting documents or evidence that relate to identity, admissibility and offences under the Act.

An officer may ask the subject of a preliminary search to empty their pockets and to remove a coat or jacket for examination. This type of search does not involve physical contact with the individual, and thus does not require approval from a supervisor.

While searching incidental to arrest does not require reasonable grounds, searching must be justified (see section 7.6). In common law, the more intrusive a search is, the greater the justification required and the constitutional protection afforded.

Level	Type of search	Explanation
Level 1	Preliminary search / Frisk search	An officer who has reasonable grounds to believe that a person is seeking to enter Canada, or is in Canada, and may have documents relevant to admissibility hidden on them, or that were or may be used in the commission of an offence, may conduct a preliminary search. No consent from a supervisor is required unless the search involves a minor child (see section immediately following this table). See also ENF 20 – Detention. The frisk search, often called a "patdown", is a personal search that involves physical contact with the person, where an officer either pats the person's clothing or runs their hands along the clothing.

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		At a POE, this search requires the consent of a supervisor.
Level 2	Disrobing search	A disrobing search involves the full or partial disrobing of a person to detect or obtain documents or other evidence that the person has concealed on their person. A Level 2 search is considered a detention. A disrobing search should be a rare occurrence. This search requires the consent of a supervisor, in all cases, including search incidental to arrest.

A Search form [IMM 5242B] must be completed in all POE cases. If no file is created for the person, the IMM 5242B should be retained locally for one year.

### Minor Children

An officer does not require approval from a supervisor to conduct a preliminary search unless the search involves a minor child. An officer conducting a search involving a minor child must demonstrate particular sensitivity for the emotional well-being of the child. The parent or adult accompanying the child should be present during the search. An officer must ensure that another officer is present throughout the duration of the search as both the witness and the activity should be well documented.

For information on fingerprinting minors refer to Section 12.3 below.

For information on photographing minors refer to Section 13.3 below.

### 7.6. Search incidental to arrest

The authority to search incidental to arrest is found in common law. The courts have ruled that a peace officer is authorized to conduct a search of an arrested person and to remove from that person any of the following three types of items:

- weapons or implements that might assist in the person's escape;
- anything with which a person might injure themselves or others;
- anything that can be considered as evidence of the offence for which the person has been arrested.

In the case law of *Cloutier v. Langlois* (1990) and *R. v. Caslake* (1998), precedents for searches incidental to arrest were established. It ruled that a search is constitutional if conducted without the use of excessive force or constraint and for some valid purpose connected to the arrest, namely:

- to ensure the safety of the arresting officers;
- to protect evidence from destruction at the hands of the person under arrest; or
- to discover evidence.

The authority to arrest and detain compels a detained person to comply with a search by an officer exercising that authority. Search incidental to arrest applies only to things in the possession or immediate surroundings of the person arrested. The power to search incidental to arrest is a discretionary one and need not be exercised where police are satisfied that the law can be effectively and safely applied in its absence.

Searches beyond Level 1 (i.e., disrobing searches) that are incidental to arrest should only take place in extraordinary circumstances and only after obtaining consent from a supervisor.

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A Search form [IMM 5242B] must be completed for all Level 2 searches, which are incidental to arrest.

### 7.7. Search related to an offence under IRPA

Pursuant to A139(1)(b), a CBSA officer may search any person seeking to enter Canada, including Canadian citizens, if the officer has reasonable grounds to believe the person has committed, or possesses documents that may be used in the commission of, an offence referred to in sections A117, A118 or A122. However, Canadian citizens have the right to enter Canada. Therefore once an officer establishes that a person is Canadian, the officer must end the examination and authorize the person to enter Canada. Any delay in authorizing entry to Canadians, permanent residents or registered Indians, including a personal search conducted for immigration purposes, would constitute detention and the person would have to be advised of their right to counsel. Since charges may follow, it is best to have CBSA – Criminal Investigations involved from the outset.

Before searching or questioning any person about possible violations of the *Immigration and Refugee Protection Act* where charges may be laid, the officer must inform the person of their rights under section 10 of the Charter. If the officer questions the person concerning immigration offences (sections 117 to 137 of IRPA), any information obtained before the person is informed of their Charter rights may be inadmissible as evidence in subsequent prosecutions against the person.

### 7.8 Officer safety in conducting searches

An officer should never assume that a detained person has been searched. The safety of the general public and of law enforcement personnel requires that search procedures be carefully observed and that appropriate documentation be completed in full. When custody of a detained person is being transferred from one officer or agency to another, search guidelines and clear communication are of critical importance.

An officer's personal safety is of utmost importance and caution should be exercised at all times when conducting a search. Before commencing a search, an officer should ensure that:

- the room is free and clear of projectiles or articles that may be used as a weapon;
- there is another officer available as a witness or for officer safety;
- there is a clear path of escape for the officers; and
- the room has proper lighting.

Two officers should be present during any search. One officer should be standing in the "ready position" in order to intervene if the person who is being searched becomes violent.

Officers should consider requesting additional assistance before searching a person who has a history of violence or has displayed behaviour which indicates that violence or extreme physical resistance is likely.

Officers should consult the CBSA Use of Force/Officer Safety policy at [http://atlas/initiatives/ai-ia/pol/force\\_eng.asp](http://atlas/initiatives/ai-ia/pol/force_eng.asp) for more information on officer safety.

### 7.9 General search procedures

It is imperative that officers make notes of all details of any examination that leads to a preliminary or personal search, as well as the items found during the search. Officers may be called on to testify in court as to the reasonable and probable grounds for the search. A second officer should witness a search and both officers should initial each evidence bag or container in which the seized items are held. This will assist in the event that allegations of impropriety

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regarding the officer's conduct are made. It may also assist in establishing the continuity of evidence.

Any information relevant to conducting a search must be recorded either in the BSO's notebook, Investigator's Notebook [IMM 5104B] or on the client's file. Officers are required to keep a written record of each personal search conducted. All relevant information, including anything out of the ordinary that occurs and any comments made by the client, should be noted. More information about note-taking procedures may be found in ENF 7, Investigations and Arrests.

Officers conducting a search must maintain a professional demeanour and refrain from responding to profanity or abuse. Profane or abusive language directed at an officer is not a ground for arrest but may constitute a ground for an obstruction charge.

In addition, the following guidelines must be observed in every search situation:

- The person being searched shall not be left alone until the search is completed.
- The person's belongings, particularly money and other valuables, should not be left unattended until the search is completed and the belongings have been secured.
- The person being searched shall first be asked to identify their goods or baggage and to confirm ownership. This will enable an officer to establish possession, should they find documents.
- The search of an individual's personal effects shall be conducted in a closed office or other area out of sight of the general public, but in the presence of the individual.
- Respect for the dignity and feelings of the person concerned must be demonstrated throughout the conduct of a search. This will help to alleviate some of the person's anxiety and help to prevent the heightening of tension or escalation of uncooperative or violent behaviour.
- Unnecessary conversation, personal remarks and humour are to be carefully avoided by officers conducting the search. Officers should be considerate of the fact that this is a serious matter and stressful for the person who is being searched.
- A Search form (IMM 5242B) must be completed in all cases at a POE and for all Level 2 searches that are incidental to arrest. If no file is created for the person, the IMM 5242B should be retained locally for one year.

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### **7.10. Completing the Search form (IMM 5242B)**

An officer must complete the appropriate section of the Search form [IMM 5242B] for all searches at a POE and for all Level 2 searches that are incidental to arrest. Part A of the form must:

- state the reasonable grounds for the search; and
- list the names of any officers assisting in the search in the "Individuals Involved" section.

Part B of the form must be completed in all instances where an officer requests a body search and must:

- state the reasonable grounds for conducting a body search which must be more compelling than those required for the search of personal effects; and
- include the results of the search.

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A supervisor or second officer indicates their concurrence by signing the form as the authorizing officer. If an officer obtains concurrence over the telephone, this information should be noted on the form and a request made that the officer sign the document on their return to the office.

An officer should list on the reverse of the form all personal effects obtained from the individual during a frisk or disrobing search.

### **7.11. Conducting preliminary and full examination searches at ports of entry**

When conducting a preliminary or full examination (level 1 or level 2) search at a POE, an officer should:

- complete the applicable section of the Search form [IMM 5242B];
- explain to the person why their baggage or vehicle is being searched;
- arrange an interview if the person requests permission to speak to a senior officer;
- be prepared to observe the search and make a note of any articles relating to immigration that are found;
- confirm ownership of all baggage by asking the following questions:
  - ◆ Is this your bag?
  - ◆ Did you pack it yourself?
  - ◆ Are you aware of the contents?
  - ◆ Did you, at any time after packing your bag, leave it unattended?
- ask the person for permission to search their bags; (even though an officer has the authority to conduct searches, a search will usually proceed more easily when an officer obtains the person's permission);
- ensure that the surface on which the examination is to take place is clean and dry, so that the passenger's baggage will not get wet or dirty;
- ask the person to open their briefcase or to empty the contents of a purse or wallet on the table;
- check the contents, then check the bag;
- handle only one bag at a time;
- examine the outside of the bag, then the inside;
- examine all pockets and check for false panels and bottoms;
- ask the person to empty their pockets and examine the contents; and
- remain courteous, discreet and tactful at all times.

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### 7.12. Conducting a search of carry-on luggage

Officers will find it easier to search carry-on luggage if they develop a systematic approach. Officers should wear kevlar or other protective gloves for personal safety. To search luggage such as briefcases, purses, and flight bags, an officer should:

- Open the bag and look at the general contents and layout. Remove any loose items that could injure an officer and set them aside. These items may include razors, pointed scissors, knives or a glass container that may have broken in the bag. Most often the person has not left these items with the intention of causing harm to someone.
- Inspect the inside edges all around the bag with the palm of the hand. Choose a starting point along the inside edge of the bag. Pull back the clothing or contents near the starting point with one hand. Place the other hand down the side of the bag at the starting point. Press a hand against the inside edge of the bag. Feel the lining for hidden documents or papers. Continue to work around the edge of the bag until the starting point is reached. If the entire surface being inspected is not visible, an officer should proceed slowly and cautiously.
- Search the contents of the bag, layer by layer. Remove and set aside any items that are in a container that cannot be seen through, such as a shaving kit. Clothing can be left in the suitcase. For larger suitcases, it may be desirable to set them aside on the table or the desk. An officer should observe the following steps:
  - ◆ lift one edge of the top layer of clothing and place one hand under it palm side up;
  - ◆ place the other hand on top, palm side down;
  - ◆ pat and squeeze the layer of clothing between both hands, feeling for objects such as an address book or passport;
  - ◆ unfold the articles of clothing and check any pockets;
  - ◆ continue to pat and squeeze across the entire top layer of the bag;
  - ◆ continue in this fashion for each layer of clothing in the bag, slowly squeezing rolled-up clothing and feeling for defined objects, while remaining vigilant for sharp objects that could cause injury.
- Search any pockets or zippered pouches that are inside the top lid of the bag. Proceed slowly because there may be sharp items inside the pockets. Check the lining in the bottom and top of the suitcase. Watch for false bottoms.
- Ensure that articles are opened and inspect the contents of all containers. Open all books and check for concealed documents. These may be cut into the cover or cut into the pages of the book. Confirm that engraving on jewellery matches the name or initials of the owner.

Once a search has begun the subject of the search must never be left alone.

### 7.13. Conducting personal searches

A139(2) of the *Immigration and Refugee Protection Act* and 98(4) of the *Customs Act* requires that a search of a person at a POE be performed by a person of the same sex as the person being searched. If an officer of the same sex is not available, any suitable person of the same sex may be authorized by an officer to perform the search.

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The first step in any personal search is to seek the person's co-operation by asking permission to conduct the search. An officer should attempt to obtain this authorization in writing before conducting a personal search.

If a person objects to being frisk-searched it is necessary for the officer to determine whether they have reasonable grounds to continue against the wishes of that person. If the decision is to continue, an officer must inform the person that they are detained and immediately advise them of their right to retain and instruct counsel without delay. The grounds for the detention should be explained to the person.

An officer should commence a personal search by:

- explaining the reason for the search to the person concerned;
- explaining, if challenged, the legal authority under A139(1) for the officer to conduct the search;
- making arrangements, where the person is detained and wishes to exercise their rights under the Charter, for access to a telephone and to a telephone directory. An officer may observe the person but may not listen to their conversation with counsel; the officer should be prepared to intervene if the person is observed in attempting to destroy or conceal evidence.

### **7.14. Conducting frisk searches**

An officer conducting a frisk search should:

- ask, prior to the commencement of the search, if the person is concealing anything on their person, and if so, to surrender it;
- conduct a search for weapons using a metal detector wand, where available;
- ask the person to remove any outer garments such as a jacket, coat or sweater and all objects from their pockets;
- itemize any documents, money, jewellery, objects having monetary value or any personal effects that are not immediately returned to the person on the IMM 5242B to ensure their eventual return to the person after the search. The person should be asked to confirm the monetary amounts. The money should be counted by two officers. It should be placed in an envelope on which is written the denominations, currency and amounts. Officers should initial next to the total on the envelope before sealing it.
- carefully examine wallets, envelopes or other packages that could contain documents;
- check garments thoroughly, paying particular attention to collars, waistbands and sleeve cuffs;
- pass the hands over the entire body of the person concerned on the outside of the clothing, to detect any bulges that would indicate hidden items or documents; any unusual bulges should be examined carefully;
- record in the BSO's notebook or the Investigator's Notebook [IMM 5104B], all information pertaining to the search; charges may result and an officer may be required to testify in court. (More information on using the notebook is available in ENF 7, Investigations and Arrests.)
- seize any documents or evidence that relates to identity or to the commission of an offence under the *Immigration and Refugee Protection Act*;

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- provide a receipt for seized documents which describes them in detail; certified true copies of documents and receipt should be placed on file;
- return anything that was temporarily seized to the person immediately after the search and have the person sign for its return if no enforcement action is being taken;
- confirm in writing, before the person who was searched leaves the room, that the person is satisfied that they have received all their property. This will help prevent claims of theft. If the person claims to be missing items, the officer should review the search form with the person to determine what is missing and attempt to resolve the situation. Wherever possible, the officer should ensure that the person is satisfied that all their possessions have been returned and have the person sign the IMM 5242B to this effect.

### **7.15. Conducting disrobing searches**

As a result of the frisk search, it may be necessary to have the person disrobe so that an officer can search for or remove evidence.

Prior to a disrobing search, an officer must advise the person of their rights under the Charter and must give the person a reasonable opportunity to exercise those rights. The grounds for the detention should be fully explained to the person. Once the person has had an opportunity to contact counsel, the search can proceed. It is not necessary to delay a search until the arrival of counsel.

A disrobing search is a serious infringement of privacy and should be done only when an officer has reasonable grounds to believe that there is a high probability that an immigration violation has occurred or will occur. This should be a rare occurrence. At detention centres, an officer may obtain the assistance of the detention centre staff to conduct a disrobing search. If an officer from another agency is conducting the search, the CBSA officer should inform them that the person has been advised of their right to counsel. The officer conducting the search may give the person a secondary caution.

Immediately after an officer cautions the person, or as a simultaneous action, but before the person enters the search room or has access to a telephone, the person should be frisked for weapons. This frisk is a precaution to ensure the safety of the officer and all persons in the inspection area and is not meant to discover evidence. An officer may use a metal-detector wand if one is available.

### **7.16. Conducting a search of a means of transportation**

Documents and papers that are in a vehicle or are in possession of the occupants sometimes offer clues regarding other parties who have a legal interest in a means of transportation. Those documents should be examined and may be copied. In the event that a means of transportation is seized, these documents may assist an officer in satisfying the requirement of R253 to identify any person who is a lawful owner of a thing seized under A140(1) and to provide that person with written notice of, and reasons for, the seizure.

### **7.17. Removal of the contents of a means of transportation**

An officer should ensure that any items of monetary or potentially sentimental value in a seized means of transportation are removed and returned to the transporter. While a seized means of transportation should not be stripped of all of its contents, officers should remove items to limit the Agency's liability. It may be prudent for the officer to allow the transporter to witness the search. If that person is disruptive or unruly, the officer should have another officer nearby to witness any items removed.

An officer should record or document items removed from the means of transportation and returned to the transporter, and should get that individuals signed acknowledgement that they

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have received the items. This may alleviate possible allegations of impropriety on the part of the officer.

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### 8. Procedure: Search warrants

A138 provides that an officer has the authority and powers of a peace officer – including those set out in sections 487 to 492.2 of the *Criminal Code* to enforce the *Immigration and Refugee Protection Act*. Although a CBSA inland enforcement officer's authority as a peace officer is limited to enforcing the *Immigration and Refugee Protection Act* and not the *Criminal Code*, they are given the authority to apply for and obtain search warrants under these sections of the *Criminal Code*. This section explains the process for applying for, obtaining and executing a warrant.

The CBSA's inland enforcement officers may ask a police officer to assist them in obtaining a search warrant. Police officers obtain many warrants in the course of their duties and usually have received specialized training in this area. When investigating a case jointly with a police service, it may be possible to have the police obtain the warrant; otherwise, a CBSA inland enforcement officer can apply for and obtain a warrant themselves. Officers should review the decision to apply for a search warrant with their manager or supervisor before initiating the process. Police services are generally happy to assist the CBSA's inland enforcement officers who are less familiar with the process. More information on obtaining police assistance is available in ENF 7, Section 11.

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#### 8.1. Charter considerations

When a CBSA inland enforcement officer is seeking to obtain a warrant, they should be aware of a person's right under section 8 of the *Canadian Charter of Rights and Freedoms* to be secure against unreasonable search and seizure. Under section 24 of the Charter, anyone whose rights and freedoms have been infringed or denied may apply to a court to obtain an appropriate and just remedy. For example, improperly obtained evidence presented in a criminal proceeding may be excluded.

See section 24 of the Charter at the following Web site:

[http://laws.justice.gc.ca/en/charter/const\\_en.html#recours](http://laws.justice.gc.ca/en/charter/const_en.html#recours)

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#### 8.2. When to apply for a search warrant

A CBSA inland enforcement officer may apply to a judge or justice of the peace for a search warrant to obtain evidence relating to an immigration investigation. A CBSA inland enforcement officer should make every effort to obtain information and evidence through publicly accessible sources before seeking to apply for a search warrant under the *Criminal Code*. Examples where an officer might need to obtain a search warrant would include:

- to obtain information to locate a person wanted on an immigration arrest warrant (e.g., telephone or credit records);
- to establish the identity of a person who is the subject of an inadmissibility report;
- to obtain evidence relating to an immigration inadmissibility investigation; and
- to obtain identity or travel documents to assist in effecting the removal from Canada of a foreign national subject to an enforceable removal order.

A judge or justice of the peace will issue a search warrant only if satisfied, by information sworn by a CBSA inland enforcement officer, that there are reasonable grounds to believe there is evidence to be found in a building, receptacle, or place necessary to enforce the *Immigration and*

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*Refugee Protection Act, including any of its provisions with respect to the arrest, detention or removal from Canada of any person.*

### 8.3. How to apply for a search warrant

Although the process of obtaining, executing and administrating a search warrant is consistent across Canada, there are slight variances in protocol from jurisdiction to jurisdiction. The CBSA officers should liaise with local police agencies and justice of the peace offices to gain a better knowledge of how a warrant is obtained, executed and administrated within their region. For more complicated cases, Legal Services should be consulted.

Two forms are necessary to apply for a search warrant:

Form 1: Information to Obtain a Search Warrant (Appendix A);

Form 5: Warrant to Search (Appendix C).

### 8.4. Information to Obtain a Search Warrant (Form 1)

It is a statutory requirement that an Information to Obtain a Search Warrant - Form 1 (Appendix A) be completed in full for each warrant requested. Failure to do so will result in the judge or justice of the peace rejecting the request.

Form 1 should be written in the third person, be easily understood, consist of a logical order of events, be factual in nature and be completed in as much detail as possible. It should not contain any unsupported assumptions or personal statements. It contains six primary sections that must be completed as follows:

**Part one** is opened by the statement, "This is the Information of" after which the informant records their full name and badge number.

**Part two** begins with, "The Informant says that there are reasonable grounds of believing that certain things to wit:" after which the informant records what it is they are looking for from the requested search. Where, for example, phone records are being sought from the telephone company to establish the location of an individual, the company's legal department may provide assistance by supplying the correct wording to complete this section.

**Part three** asks what has occurred during an investigation that would justify a warrant being issued. The informant should state what reasonable grounds exist to believe a specific offence under the Act took place on a specific date and at a specific location, and the outcome that would justify a judge or justice of the peace to authorize a warrant.

**Part four** asks the informant to describe the exact location of the thing sought. The informant should include very detailed information regarding detached dwellings, specific building floor or suite numbers and phone and fax numbers, where appropriate. Once again, a co-operative company will usually provide this information when requested.

**Part five** is of particular importance. The informant records here their reasons for believing that the thing(s) sought are in the location where the search is requested to occur and that there are grounds that would justify the lawful issuance of a warrant. This section of the form starts with the statement, "My grounds for belief are" after which the informant presents their reasonable grounds for seeking the warrant in a chronological and numerical fashion. This section should be written in the third person.

**Part six** is simply the conclusion portion of the warrant where the date and signature of the informant and either the judge or justice of the peace reviewing the form is made.

For more information on completing Form 1, refer to a sample Form 1 in Appendix B.

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### 8.5. Warrant to Search (Form 5)

Form 5 (Appendix C) is the actual Warrant to Search. The CBSA inland enforcement officer applying for a search warrant must complete Form 5 and attach it to Form 1, Information to Obtain a Search Warrant. Failure to do so will result in rejection of the application.

Form 5 and Form 1 possess many similar fields.

**Part one** of Form 5 is slightly different in that on Form 1 the preamble states, "This Is the Information of" and on Form 5 the preamble states, "Whereas it appears on the oath of." On both Form 1 and Form 5 it is simply the name of the officer applying for the warrant and their badge number that is stated.

**Part two** of both Form 1 and Form 5 are the same with the exception that on Form 1 there is a preamble stating, "The Informant says that." Both forms state, "Certain things to wit:" after which both forms will include the identical thing that the informant is looking for.

**Parts three and four** are identical in wording with regard to the description of the offence that took place and the reasonable grounds to believe that the thing is at the place to be searched.

**Part five** bears no relation to part five of Form 1. On Form 5, part five stipulates when the search is authorized to take place. In general a search warrant can be executed only during a normal work week, and then only between the hours of 6 a.m. and 9 p.m.

**Part six** of both forms are very similar in that on Form 5 the date and signature of either the judge or justice of the peace is noted, and on Form 1 there is space for the additional signature of the informant.

For more information on completing Form 5, refer to a sample Form 5 in Appendix D.

### 8.6. Appearing before a judge or justice of the peace

Once the Information to Obtain a Search Warrant (Form 1) and the Warrant to Search (Form 5) have been completed, the CBSA inland enforcement officer goes before the judge or justice of the peace to present the warrant application. This is a formal process and respect for the court is imperative. Officers should review the CBSA policy regarding the conduct of officers as witnesses (see ENF 7, Section 27.2). If the application is rejected, the judge or justice of the peace will provide reasons. Where the application is rejected due to lack of clarity, limited information or technical errors, the officer may have to re-do the application in its entirety.

### 8.7. Execution of a search warrant

When executing a search warrant, the CBSA officers must:

- identify themselves;
- inform the keeper or guardian of the place being searched;
- advise that person of the estimated time that will be required for the search; and
- provide the person concerned with a copy of the Warrant to Search (Form 5).

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**Note:** Do not give a copy of the Information to Obtain a Warrant to Search (Form 1) to the person concerned.

#### Police assistance

The CBSA officers may ask a police officer to assist them in executing a search warrant. If, during a search, items other than those required for immigration purposes are located (i.e., drugs, weapons, or other contraband), it is the responsibility of the police to seize and investigate non-immigration offences.

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### **Searching dwelling houses**

If the search is in relation to a dwelling house, police must be present to ensure officer safety. It is the legal obligation of the keeper or guardian of the place being searched to comply with the search warrant. It is an offence to impede, obstruct, or otherwise resist the lawful execution of a search warrant. If a person resists the execution of a search warrant, officers should let the police control the incident.

### **Search procedures**

ENF 7, Section 20 provides guidelines on the proper procedure for searching a private residence.

ENF 7, Section 21 provides guidelines for seizing things which are also applicable to seizures made via a search warrant. However, officers should only use the Form 5.2 to document goods that are seized under the authority of a search warrant.

A CBSA officer may use reasonable force to execute a search warrant. When the use of force is required to execute a warrant, it is imperative that police assistance is utilized. Case law dictates that a peace officer may use whatever force is reasonable and necessary to execute a search warrant; however, officers should adhere to policy regarding officer safety and security. (See ENF 7, Section 5.12.)

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### **8.8. Protocol for conducting searches**

Every time a search warrant is executed, there must be a set protocol that is followed to ensure that each step of the search is conducted in a diligent and lawful manner. There is a minimum of three functions required for every search:

1. primary search;
2. exhibit control;
3. security (always performed by the police when searching a dwelling house).

#### **Primary search officer**

The officer who swore the oath to obtain the search warrant always performs the primary search function and is ultimately responsible for the search. This officer is in charge of the search team and acts as the overseer of the entire search process.

#### **Exhibit control officer**

The exhibit control officer is responsible for securing, itemizing, documenting, storing, ensuring continuity of evidence, and finally returning, forfeiting or destroying the exhibits once they are no longer required. Once the search is complete, the exhibit officer has a tremendous responsibility to ensure all evidence is properly managed. The exhibit officer must have a secured locked area for storage of exhibits, complete the Report to a Justice, and ensure that all provisions of s. 490 to s. 490(2) of the *Criminal Code* are abided by. When a search warrant is used to obtain a small record from a third party such as a telephone company, the primary search officer and exhibit control officer may be the same person.

#### **Security officers**

When a dwelling is going to be searched, it is advisable to have enough officers present to secure the structure, conduct the search and ensure the occupants are controlled. The search team will often consist of police officers in addition to the primary search officer and the exhibit control officer. Where police are part of the team, the primary search officer will still be in charge of the search.

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### 8.9. Protection of evidence

For all searches, it is imperative that the officer protect evidence (see ENF 7, Section 21.4) and document the entire search process by taking detailed notes (see ENF 7, Section 14). Copies of Forms 1, 5, and 5.2 must be placed on file, and all evidence must be stored in a secure manner so as to maintain continuity.

Officers must be aware of their responsibilities under sections 490 to 492 of the *Criminal Code* to properly report, store, handle, transfer, forfeit and return goods seized from a search warrant.

If evidence is to be returned to the person or place from which it was seized pursuant to section 490 of the *Criminal Code*, the clerk of the court will assist the officer in completing this task.

### 8.10. Report required following execution of a search warrant

Once a search warrant has been executed and/or has expired, the officer must submit to the clerk of the court:

- a completed Report to a Justice (Form 5.2);
- the original warrant; and
- a certified copy of the evidence seized.

### 8.11. Report to a Justice (Form 5.2)

Section 489.1 of the *Criminal Code* requires that a Report to Justice on Form 5.2 (Appendix E) be completed to report the outcome of a search warrant. This should be done by the officer who receives the search warrant (primary search officer) once the warrant has been executed. The form must also be completed when a search warrant has been issued but not executed. Failure to complete the form may result in the judge or justice of the peace finding that the search warrant has been executed in an unreasonable manner.

Form 5.2 is used to itemize things that were seized, the time and place where the things were seized, and the name and agency of the officer who executed the search warrant. Because most of the things seized by an officer will be documents or records, it is sufficient to make certified copies of these and attach them to Form 5.2.

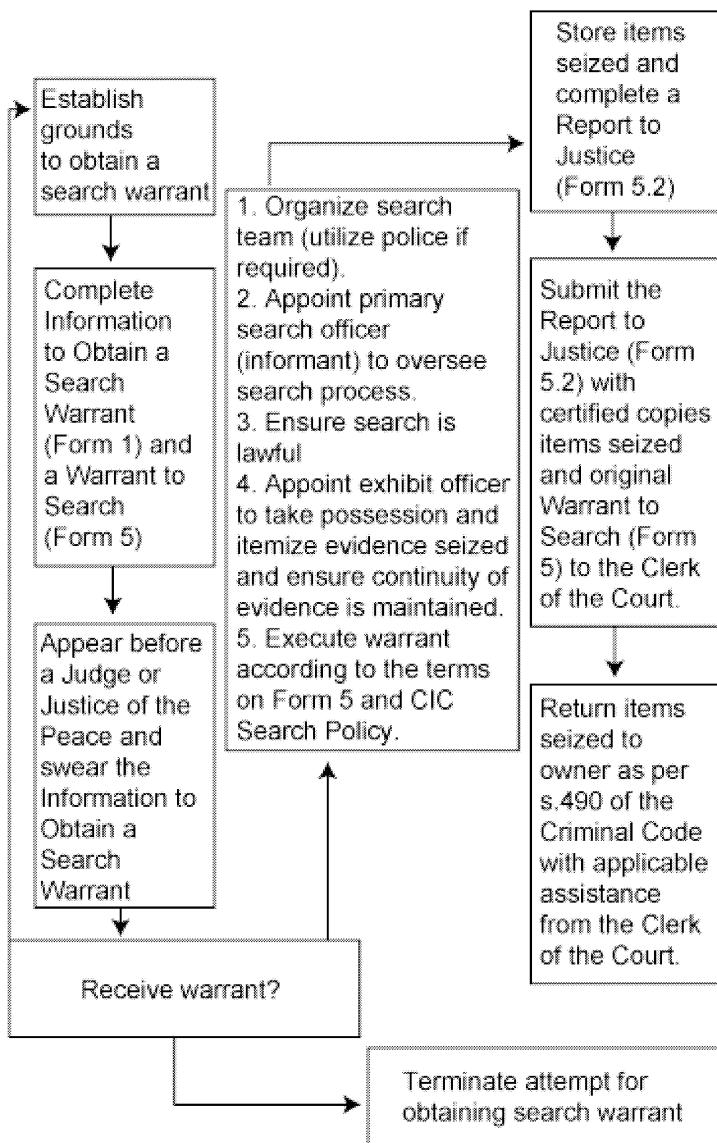
For more information on completing Form 5.2, see a sample Form 5.2 in Appendix F.

### 8.12. Three-month limit on detention of objects seized under a search warrant

Under section 490(2) of the *Criminal Code*, if seized articles are to be detained for more than three months and no proceedings are instituted in which the things detained may be required, an application must be made to a justice for an order for further detention, before the expiration of that period. Failure to comply with this requirement will result in the articles being returned to the person concerned and that person may have cause for action against all parties involved in the seizure.

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### 8.13. Search warrant flowchart



## 9. Procedure: Seizures

### 9.1. Authority and grounds for seizure

A15(3) authorizes a CBSA officer to board and inspect any means of transportation bringing persons to Canada, examine any person carried by that means of transportation, and any record or document respecting that person, and to seize and remove the record or document to obtain copies or extracts.

A140 provides several authorities for an officer to seize documents and other things. Both CIC and the CBSA are designated with the authority to seize documents, and other things. However, only CBSA officers have been designated with the authority to seize a means of transportation.

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A140(1) authorizes a designated officer to seize and hold any means of transportation, document or other thing if the officer believes on reasonable grounds that it was fraudulently or improperly obtained or used or that the seizure is necessary to prevent its fraudulent or improper use or to carry out the purposes of the Act. The criteria for seizures under A140 are the same, regardless of the object being seized.

A148(2) provides authority for the detention, seizure or forfeiture of security provided by a transporter and any vehicle or other prescribed good if the transporter fails to comply with an obligation under the Act. For procedures relating to seizures made under the authority of A148(2), refer to ENF 15.

### 9.2. Limitation period for seizures

R258 provides that no seizure may be made under A140(1) in respect of the fraudulent or improper obtaining or use of a thing more than six years after that obtaining or use.

### 9.3. Solicitor-client privilege: *Lavallee*<sup>1</sup> Supreme Court Decision

The Supreme Court of Canada ruled in *Lavallee* to protect the confidentiality of communication between a lawyer and their client(s), in the context of search and seizure. On the rare occasion when an officer is faced with a solicitor-client privilege scenario, where the officer is in possession of a document that may give rise to solicitor-client privilege, an officer should refrain from infringing on that right.

In order for the privilege to apply, the following conditions must be met:

1. there must be a communication between a client (or their agent) and a legal advisor;
2. this communication entails the seeking or giving of legal advice; and
3. this communication is intended by the parties to be confidential.

There is an exception to solicitor-client privilege when the client seeks guidance from a lawyer in order to facilitate the commission of fraud or crime. An exception also exists where communication is not intended to be confidential. Nevertheless, caution should be exercised before examining or seizing documents that could be subject to solicitor-client privilege and Legal Services (or another appropriate section of the CBSA to be determined) should be contacted about these issues.

An officer should:

- ensure another officer is available to witness and to sign the appropriate form (IMM 5242B);
- ensure the client understands and observes the process;
- have the client sign the appropriate form;
- ensure that notification is given to the lawful owner of the document;
- limit the contamination factor by sealing the item and not allowing others to view or handle the seized items;
- report procedures on file and/or update FOSS.

In some cases, a client may manifest their intent to waive solicitor-client privilege. In such cases, it is recommended that the client sign a declaration to that effect, and that a credible witness, such as another officer, countersign the declaration.

<sup>1</sup> *Lavallee, Rackel & Heintz v. Canada (Attorney General); White, Ottenheimer & Baker v. Canada (Attorney General); R. V Fink* 2002 SCC 61.

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In any of the above cases, an officer should:

- conduct background checks (FOSS/CPIC/NCIC/Interpol);
- determine admissibility;
- identify if there is a pattern of abuse of solicitor-client privilege;
- determine the rightful holder of the document;
- make every attempt to obtain consent from the privilege holder, i.e., the client, since the privilege belongs to the client;
- if the client manifests their intention to waive solicitor-client privilege, request that the client sign a declaration to that effect;
- seal the documents, if they are not sealed, and appropriately mark them;
- report to the manager/supervisor and update FOSS;
- make every attempt to obtain legal advice from another source (if one is not available, contact CBSA NHQ, Legal Services);

The officer should evaluate whether the examination of the document is necessary for the purposes of the Act. For example, if enough evidence exists to support an inadmissibility allegation or there are sufficient identity and travel documents to effect removal, then search and seizure of the document in question may not be necessary. The most cautious course of action may sometimes be for the CBSA officer to seek a search warrant in relation to the documents, where reasonable grounds exist. A search warrant cannot allow the search and seizure of documents known to be protected by solicitor-client privilege.

CBSA officers will not have to deal with a large volume of documents that could be subject to solicitor-client privilege. Moreover, in the mail examination context, procedures put in place to protect any potential solicitor-client privilege should be invoked as soon as an officer views documents to which solicitor-client privilege is attached and before a seizure is made under the *Customs Act* or *IRPA*.

### 9.4. Seizing documents

A140(1) authorizes an officer to seize and hold any means of transportation, document or other thing if the officer believes, on reasonable grounds, one of the following:

- it has been fraudulently or improperly obtained or used;
- the seizure is necessary to prevent its fraudulent or improper use; or
- the seizure is necessary to carry out the purposes of the Act and Regulations.

CIC officers who have reasonable grounds to believe that documents were fraudulently or improperly obtained or used may seize documents and turn them over to the CBSA for further investigation.

This includes seizure of identity, travel and/or other documents as evidence or to effect a removal, should an individual become subject to an enforceable removal order.

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If a person from whom an object has been seized wants to contact legal counsel, the officer should make every effort to facilitate. This may be as simple as providing a phone and phone book.

Following a seizure made by an officer, the officer is required by R253(1), in the case of seizures made pursuant to A140(1), to make reasonable efforts:

- ◆ to identify any person who is a lawful owner of the document seized; and
- ◆ to give the person, who is a lawful owner of the document seized, written notice of and reasons for the seizure.

An officer who seizes a travel and/or identity document is required to issue a **Notice of Seizure of Identity Document(s) [BSF 698]** and to include the reasons for the seizure as well as information on how/where individuals may make an **Application for the Return of Seized Identity Document(s) [BSF 699]**.

For all other items seized (e.g. ticket stubs, employment information, conveyances, etc.) **Notice of Seizure [IMM 5265B]**, or **Notice of Mail Seizure [IMM5079]** must be used.

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**Note:** In keeping with CBSA policy, officers should, for each document seized, provide the person from whom documents are seized with a copy of the seizure form, which will serve as a detailed *Notice of Seizure* receipt.

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If documents are genuine and the individual from whom the document(s) is (are) seized is the rightful holder, officers will make copies, certify them as true copies and provide the certified true copies to the individual from whom the documents were seized.

- Examples of document seizures to prevent fraudulent or improper use include
  - Document(s) (IMM 1000<sup>2</sup>/Confirmation of Permanent Residence, Permanent Resident Card, Study Permit, Work Permit, Temporary Resident Permit, Temporary Resident Visa, travel documents, etc.) issued to an individual other than the individual who is in possession of the document(s) where the individual does not have a valid explanation for being in possession of the document(s) and the document(s) was/ were not used to enter or exit Canada or another country;
  - Examples of fraudulent documents, include, but are not limited to:
    - altered documents (e.g. photo-substitution, page substitution, and alterations and/or erasure of information (e.g. date of birth, name, country of citizenship, and entry stamps);
    - counterfeit documents;
    - improperly obtained or issued documents;
    - fantasy documents.

Examples of documents that may be seized to carry out the purposes of the Act include, but are not limited to:

- travel documents (e.g. passports, certificates of identity, laissez-passer or refugee travel documents);

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<sup>2</sup> IMM 1000 (Record of Landing) – this document has not been issued since June 28, 2002 and has since been replaced by an immigrant visa counterfoil (IMM1346) and the Permanent Resident (PR) Card.

## ENF 12 Search, Seizure, Fingerprinting and Photographing

- personal identification (e.g. U.S. social security cards, driver's licences or any other form of personal identification that may or may not include a photograph of the holder);
- CIC-issued documents (e.g. Permanent Resident Card, IMM 1000 or IMM 5292, Citizenship card);
- airline tickets;
- itineraries;
- work records;
- inmate identification;
- criminal records documents, i.e., court transcripts, tickets, arrest reports;
- medical history, charts, prescriptions, receipts, notes;
- letters, pictures, video tapes;
- phone and address books; and/or
- purchase receipts.

### 9.5. Seizing documents abroad

Following the examination of travel, identity and/or other document(s) submitted to officers overseas, officers may have reasonable grounds to believe that the document(s) was/were fraudulently or improperly obtained or used, or that seizure is necessary to prevent a document's fraudulent or improper use or to carry out the purposes of the Act. Officers should be aware that although subsection 140(1) establishes authority for officers to seize documents abroad, the laws of receiving states do apply and officers should observe them. Therefore, the legal context and the attitude of the host country in enforcing domestic law are important considerations in determining the authority of officers to seize documents abroad.

Officers overseas also have the authority to seize documents that are not issued by a Canadian authority. However, they must ensure that the seizure is done lawfully, which in practice means that reasonable grounds exist and the seizure is carried out in accordance with domestic law of the host country.

The approach to the question of seizure of documents will vary from visa office to visa office depending on the local environment in which the CBSA Liaison Officers (LO) and CIC visa officers work, and the type of partnership or arrangements they have with the local enforcement agencies, airlines and other foreign-based visa offices with whom they interact.

Officers should be aware that depending on local laws, the type of document or the type of arrangement with local agencies, officers may not have the authority to seize a document that was fraudulently or improperly used or obtained.

For example, documents should not be seized from an individual, if the seizure impedes a host country's ability to repatriate a third-country national.

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**Note:** The legislation of the host country always supersedes IRPA; therefore, seizure of identity and/or travel documents abroad must be fully supported by local authorities.

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## ENF 12 Search, Seizure, Fingerprinting and Photographing

In the event a seizure meets all of the above conditions, officers are instructed to complete form BSF698: *Notice of Seizure of Identity Document(s)* for all travel and /or identity documents seized under subsection 140(1) of IRPA.

For all other items seized (e.g. ticket stubs, employment information, conveyances, etc.) IMM 5265B: *Notice of Seizure must be completed.*

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**Note:** CBSA Liaison Officers (LO) should contact International Network Support via [IMM 5265B](#) if they require additional guidance.

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### 9.6. Documenting and tracking document seizures

Officers must maintain a detailed record of any seizure action taken. This information may be useful in the event of a complaint, litigation, prosecution or enforcement action. It may be used as evidence in immigration proceedings, admissibility hearings, appeals and refugee hearings, or to enforce removal orders.

The information concerning seizures must be maintained so that information can be retrieved quickly. At a minimum, the information recorded in the case of a seizure should include the following:

- lawful owner (where it can be determined);
- person from whom the document was seized;
- description of all documents seized;
- name and address of consignor (if applicable);
- name and address of consignee (if applicable);
- details of action taken as a result of seizure;
- details of any representations received;
- final disposition of items seized; and
- record the seizure control in the upper right-hand corner of BSF 698. The seizure number should be constructed as follows:
  - port code-year-sequential number (i.e. 914-2012-001)

### Protecting Evidence

For information on maintaining the continuity of evidence for the purposes of prosecution under IRPA, refer to section 11.2 of this manual.

### Secure System for Intelligence (SSI)

Officers are required to capture all information related to the seizure of travel and/or identity documents in the SSI.

- ♦ Officers who do not have access to SSI, should follow the directions at the following link to gain access:

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**Note:** Approval from a manager is required.

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For information on how to use the SSI, officers may refer to the user guide embedded within the system, once they have received access.

### **Cancelling a document**

In cases where it is not possible to seize a document, officers should, in consultation with the issuing authority (i.e. the Canadian Passport Office, the local issuing authority, the officer who issued the temporary resident visa or the local visa office, etc.), cancel a document that may have been fraudulently used or obtained.

. Genuine expired (i.e. Temporary Resident and/or Permanent Resident) visas may be annotated "Canceled without prejudice" in indelible black ink to deter re-use as raw material for fraudulent purposes.

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### **9.7. Seizing documents from refugee claimants**

The CIC and CBSA officers should, as a matter of routine, seize all pertinent identification or travel documents carried by refugee claimants. Certified true copies of documents provided to these individuals will still ensure access to federal and provincial requirements.

Seized documents will:

- expedite the identification of the person;
- assist in background checks;
- assist in identifying immediate family members;
- assist in verifying information provided in their Basis of Claim Form (BOC)
- ensure compliance;
- ensure that documents are not recycled;
- assist in removal should the refugee claim be unsuccessful.

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### **9.8. Seizing airline tickets**

Officers should be cautious in seizing an unused airline ticket because it has a monetary value. In some cases, it may be appropriate to seize an airline ticket if it has been fraudulently or improperly obtained or used or in order to prevent its fraudulent or improper use. An example would be where an officer finds that the passport is also fraudulent and contains the same alias as on the ticket. In such a case an officer may reasonably conclude that the ticket is being used in order to gain illegal entry to Canada.

The officer should be aware that just because the name on the ticket and the name of the individual do not match, this does not necessarily mean that the ticket was fraudulently obtained. For example, the discrepancy between the name on the ticket and that of its holder can be the result of an error by the airline.

In all cases where documents are seized, an officer must issue the person a Notice of Seizure form [IMM 5265B].

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### **9.9. Seizing vehicles**

The term "vehicle" is defined in the Regulations to include any means of transportation that may be used for transportation by water, land or air. This can include cars, trucks, tractors, buses, motorcycles, boats, airplanes and other modes of transportation.

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Where the vehicle has more than one component (e.g., a car pulling a trailer), each is treated as a separate vehicle. If they are seized, separate notices (IMM 5265B) and reports are required for each vehicle. In the following scenarios, it may be appropriate for a CBSA officer to seize a vehicle:

- Where a vehicle is used to drop an undocumented, or otherwise inadmissible, person on the U.S. side of the border in order to assist the person in eluding examination, and subsequently picks up the person on the Canadian side without the person appearing for examination.
- Where, after primary examination, an undocumented person who has failed to appear for examination is discovered in the vehicle.
- Where a vehicle is used to bring an undocumented person to Canada for the sole purpose of allowing that person to disembark without being presented for examination.
- Where the true status or intent of a person, who does not have a passport or a visa as required, is withheld or purposely misrepresented to prevent a proper examination.
- Where, during an examination, it is discovered that the driver of a vehicle allowed an undocumented person to exit the vehicle before the point of examination and that person walked to the POE to report separately for an examination; and where it is established that the driver was seeking entry to Canada but knowingly withheld documents and any connection with the arrival of the pedestrian who is inadmissible.
- Where the driver or owner of a vehicle knowingly brings refugee claimants to the border and receives remuneration for these services (lawyers, consultants, or others).

It may NOT be appropriate for a CBSA officer to seize a vehicle where the driver or owner knowingly brings refugee claimants to the border without receiving any remuneration for these services (family members, friends, NGOs).

Since a vehicle may be seized after the fact, officers should immediately take note of the vehicle's identity numbers and markings in case it leaves without permission or the seizure cannot take place because of danger. This information can subsequently be used to link the vehicle to a fraudulent or improper use if it is located at a later date. If the seizure cannot be completed, the officer should report the incident to the CBSA Regional Office and to the CBSA Regional Director. The matter should be turned over to the RCMP for investigation and appropriate action.

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**Note:** Only the CBSA is designated to seize a means of transportation under A140.

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### **9.10. Seizure of commercial vehicles**

For information on the procedures relating to seizures of vehicles or assets of commercial transporters pursuant to A148(2), refer to ENF 15, Obligations of Transporters.

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### **9.11. Notice of seizure**

Following a seizure made by an officer, the officer is required by R253(1), in the case of seizures made pursuant to A140(1), and by R286(1), in the case of seizures made pursuant to A148(2), to make reasonable efforts:

- to identify any person who is a lawful owner of the object seized; and
- to give the person, who is a lawful owner of the object seized, written notice of, and reasons for, the seizure.

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If the person from whom an object was seized is not the owner, the officer should ask the person from whom the object was seized to identify the owner or owners and request that they complete a declaration. An officer should document the steps taken to determine ownership and notify the owner and, where appropriate, may also consider completing a statutory declaration.

In the case of a seized means of transportation, the lawful owner could include:

- the registered owner who is not the person from whom the means of transportation is seized;
- the firm that owns the vehicle that has been leased or rented.

An officer who seizes an object is required to issue a Notice of Seizure [IMM 5265B] and to include the reasons for the seizure as well as how/where to make an application for its return.

If a person from whom an object has been seized desires to contact legal counsel, the officer should make every effort to facilitate this. This may be as simple as providing a phone and phone book.

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### **9.12. Reporting the seizure of a vehicle**

CBSA officers should provide the following information in their report following the seizure of a vehicle:

- the name and other relevant biographical data of the driver and passengers;
- the role of all the persons involved in the case;
- the vehicle information (i.e., plates, description);
- information on the owner of the vehicle, including permission of use if the owner is not the operator (the facts will support the evidence in the courts);
- whether it is a rented vehicle (copy of the rental agreement);
- the point of disembarkation and entry as well as the destination in Canada;
- details about passengers disembarking immediately before arriving at the Canadian border;
- presentation of passengers and intent (i.e., failure to report for examination);
- misrepresentation, false or misleading information, deception, stealth;
- the status of the application on arrival;
- details about passport, visa, travel documents and other relevant documents or the lack of them;
- itinerary, plans or details of events;
- specific destination or addresses;
- estimate of the value of the vehicle or things seized.

The officer's report must be detailed and accurate as it may be used for evidence in courts. The officer's report may be also used for recommendations to the Minister regarding the disposition of the seized vehicle or to determine the value of the vehicle. The officer's notes should support the

## **ENF 12 Search, Seizure, Fingerprinting and Photography**

decision to seize. Reports that are inaccurate or are incomplete may lead to a decision to return the seized vehicle.

For information on note-taking refer to ENF 7, Investigations and Arrests.

The officer who seizes a vehicle should immediately report the basic information by e-mail to their Regional Director. This will allow the Minister's delegate to respond quickly to inquiries made within a day or two following the seizure. A written report and the documentary evidence that is available at the time should be sent by fax to the officer's Regional Director within three business days.

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## **10. Procedure: Mail search and seizures**

The objective of mail search and seizures is to take out of circulation counterfeit, altered and improperly obtained travel and identity documents. Documents found in international mail may be relevant to prosecutions or enforcement actions under the *Immigration and Refugee Protection Act*.

Officers involved in examining, seizing and caring for items seized in mail and courier systems should strive for minimal impairment of privacy and be mindful of the responsibilities inherent in their authority.

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### **10.1. CBSA inspection procedures for international mail**

International mail arrives in Canada from other countries by marine, rail, highway, and air modes of transport. The mail is received at Canada Post processing facilities where it is sorted for movement within Canada. International mail is then directed for CBSA processing to one of three CBSA mail centres, all located within Canada Post facilities in Vancouver, Toronto, and Montreal. The CBSA reviews all classes of mail received from Canada Post to identify and segregate items that require further examination. The review includes priority post, first class, registered and parcel mail.

During primary inspection, the CBSA officers screen the mail items to determine which are duty-free and non-taxable. Mail items that require no further customs control are stamped "Cleared Customs" and are returned to Canada Post for delivery. Mail items that may contain goods that are prohibited, subject to control, subject to duties or taxes, or which require examination by another government department or agency are separated. A bar code label is then applied to the item and tombstone information is entered into the CBSA Postal Import Control System (PICS) in preparation for the CBSA customs secondary processing.

The CBSA officers who conduct customs secondary processing review mail items to determine whether they are subject to duties or controls requiring permits, certificates, enforcement measures, or inspection by another government department. Should the information on the customs declaration attached to a mail item be insufficient for this determination, CBSA officers may open it, retrieve the invoice information, or physically examine the contents. If the contents are being imported properly, the details of any assessment of duties, taxes, and a handling fee are printed on a Customs Postal Import Form (form E14) which is then affixed to the mail item. The item is then returned to Canada Post for delivery to the addressee and the collection of duties and taxes.

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### **10.2. CBSA inspection procedures for courier shipments**

Due to the high-volume, low-value nature of goods imported in the courier stream, the CBSA has streamlined the reporting, release, and accounting procedures for certain courier shipments. According to these procedures, authorized couriers are allowed to present a single report that lists all low-value shipments (i.e., valued at under \$1600) onboard a conveyance, instead of having to present separate cargo control documents normally required for each individual

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shipment. The single report, called a Cargo Release List (CRL), may be submitted to the CBSA either before the conveyance arrives in Canada or when it arrives.

Currently there are 45 courier companies authorized to use these procedures at 30 different points of entry. From the first point of entry, courier shipments are transported to the courier's warehouse, which is licensed by the CBSA to receive goods in bond.

The CBSA officers use the CRL to identify shipments that they wish to examine and communicate this information to the courier. The CBSA officers will then proceed to the courier's warehouse to conduct examinations that determine whether the imported items are subject to duties or controls requiring permits, certificates, enforcement measures, or inspection by another government department or agency. The CBSA officers may open the shipment, retrieve the invoice information, or physically examine its contents. At this stage, the CBSA officers can visually inspect and physically examine any other shipments not previously selected for examination, if they are still available in the warehouse. Once the examinations are completed, the officer will either release the shipment to the courier for delivery or issue a Form Y50, effectively removing the shipment temporarily from the courier flow. A courier shipment for which a Form Y50 has been issued will not be returned to the courier flow until any conditions for its importation, as specified on the Form Y50, are met. Such conditions may include examination of the shipment by another government department or agency.

### 10.3. How mail seizures work

When a CBSA officer examines a parcel containing suspicious documents or other documents or thing that might be subject to seizure under A140, the CBSA officer will generally detain the parcel until it can be examined further. When deciding whether there are reasonable grounds for a seizure under A140, the officer must take into account the totality of the circumstances, including the following three points:

- Is the information upon which the grounds for seizure are based compelling?
- Is the information credible?
- Is the information corroborated?

### 10.4. Responsibilities of CBSA officers with respect to immigration-related mail seizures

**CBSA officers seizing immigration-related documents are responsible for the following:**

- treating every seized document and/or any other item seized as a potential piece of evidence. The packaging itself may also constitute important evidence and is worthy of the same consideration;
- maintaining records of seizure, including officer notebooks, as they may ultimately be subject to scrutiny in court;
- justifying their actions in the examination and seizure of international mail in the event of a prosecution, enforcement measure, complaint, audit, investigation, or other review;
- notifying the lawful owner of seized documents and disposing of them in accordance with the *Immigration and Refugee Protection Act*.

With respect to enforcement measures, the integrity of seizure procedures is paramount to ensuring proper control, accounting and continuity of evidence.

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### 10.5. Documenting and tracking seizures

It is imperative that officers maintain a detailed record of any seizure action taken. This information may be useful in the event of a complaint, litigation, prosecution or enforcement action. It may be used as evidence in immigration proceedings, admissibility hearings, appeals and refugee hearings, or to enforce removal orders.

Where the examination site does not have computer equipment available for use by the officer, work sheets and seizure forms should be completed manually. The information concerning seizures must be maintained so that information can be retrieved quickly. At a minimum, the information recorded in the case of a seizure should include the following:

- lawful owner (where it can be determined);
- person from whom the document was seized;
- date and time the package was referred by the initial CBSA officer for further inspection;
- the referral information (e.g., log numbers, courier company labels);
- date, time, and place where examination of the package commenced;
- date, time, and place where examination of the package was completed;
- number of items in package;
- description of all items seized;
- name and address of consignor;
- name and address of consignee;
- whether full or partial seizure;
- if a partial seizure, date/time/place package returned for customs processing;
- details of action taken as a result of seizure;
- details of any representations received;
- final disposition of items seized; and
- the seizure control number.

### 10.6. Security, storage, and labeling of items seized

Rigorous standards of control, including appropriate secure storage, labeling, and regular monitoring of any seizure is mandatory. Seized items stored locally will be subject to normal file control practices, including inventory, review and purging. Officers and support clerks should be able, at any time, to determine the location and responsible officer for any seized item. Appropriate receipts for transmittal of seized items must also be carefully maintained.

A copy of the Notice of Mail Seizure form [IMM 5079] and a copy of the Record of Examination form [IMM 5369B] should be securely attached to the envelope used to store seized items. The seized items should be placed within a secure envelope.

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### 10.7. Split seizures

Splitting seizures for any reason should generally be avoided. If a seizure consists of several items, they should all be kept together in the original seizure envelope until final disposition. There may be exceptions to this, such as where multiple documents are seized relating to several different case files. In this instance, the seized documents would be individually forwarded to the respective case files.

### 10.8. Partial seizures

In a partial seizure, one or more items of contraband may be seized from a package, the rest of which is returned to the customs process. If one or more prohibited items are removed, the remaining goods should be re-sealed in the package and the officer can return them to the customs process. On release by a CBSA officer, the package may then be returned to the course of post. Where a partial seizure occurs, notification should be provided as per the Regulations.

### 10.9. Notification of owner

The *Immigration and Refugee Protection Act* requires that officers effecting a seizure, full or partial, of items from international mail must provide notification in all cases. For information concerning notification of the rightful owner refer to Section 9.10 of this chapter.

In cases where ownership of seized goods cannot be readily established, for example where the importer's or exporter's full name and address cannot be determined from the labels or other information accompanying the seized goods, officers should make reasonable alternative efforts to identify the owner. Efforts to locate the owner and the results at each stage should be recorded in detail on the seizure file and local mail seizure administrative databases. Where an owner is identified, written notification of mail seizures should be made using the IMM 5079B. Brief grounds for seizure specific to each item listed on the form should be included in the "Description" portion.

If the goods clearly constitute contraband, such as blank identity documents or counterfeit passports, the officer can conclude that there is no lawful owner. In some cases, state-issued documents such as passports should be returned to the issuing authority. Officers should not notify an issuing state in cases where a document was seized from a refugee claimant when such notification would alert the country to the presence of the refugee claimant in Canada.

### 10.10. Returning items to the customs process

Where an officer does not establish reasonable grounds for seizure, the package should be returned without delay to the customs inspection process. An imported package is considered to be in the customs secondary process unless seized by a CBSA officer for immigration purposes.

There is no requirement to record reasons in support of a decision to return a package to the customs process. A minimum of information should be recorded about released packages as may be required for tracking the item, for measurement of workload or other legitimate administrative purpose. No photocopies, images, transcriptions or other record of the contents of such packages are to be retained.

### 10.11. Release of information

Except as provided below, under no circumstances should an officer respond to requests from other agencies or departments to obtain information that may arise from the examination of detained mail. If an officer does not have reasonable grounds to make a seizure of detained mail, then there is no authority to disclose information about detained mail to a third party. Neither should an officer examine or seize mail on behalf of any other agency or department, unless legally authorized to do so.

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Under some circumstances, there may be authority for an officer to release information obtained as a result of a seizure. CIC and CBSA may release personal information obtained as a result of a seizure to the RCMP for investigations under the Act and Regulations. Such release is consistent with the purpose of subsection 8(2)(a) of the *Privacy Act*.

CIC and the CBSA may also release personal information to an investigative body specified in the *Privacy Regulations* for the purpose of enforcing any law of Canada or a province or carrying out a lawful investigation. The investigative body must make a written request, which specifies the purpose and describes the information to be disclosed pursuant to paragraph 8(2)(e) of the *Privacy Act*.

There may be other situations where the release of information obtained as result of a seizure may be authorized under the *Access to Information Act* and *Privacy Act*. The officer is encouraged to seek the advice of their regional Access to Information and Privacy (ATIP) coordinators before considering such options.

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### 11. Procedure: Disposition of seized objects

#### 11.1. Custody of seized items

R252 requires an officer who seizes a thing under A140 to place it without delay in the custody of the Department/Agency. CIC and CBSA officers are designated to seize documents or other things under A140 while only the CBSA is delegated to seize a means of transportation under A140. If a document or other thing is seized by a CIC officer, it will be placed without delay into the custody of CIC. If a CBSA officer seizes a means of transportation, document or other thing, it will be placed without delay into the custody of the CBSA. Objects should be stored in a protected holding area with restricted access. If the RCMP seize anything under the *Immigration and Refugee Protection Act*, they are required to turn it over to a CBSA officer.

Storage of seized vehicles should be arranged locally in consultation with the regional CBSA office when necessary. The storage area should afford reasonable protection against damages, theft and accidents.

If a file transfer occurs between CIC and the CBSA, custody of the seized document or other thing will also change from one organization to the other. Means of transportation will always remain in the custody of the CBSA.

#### 11.2. Protecting evidence

**An officer may be required to testify in court that a document or other object collected as evidence has remained unchanged since it came into their possession: in other words, that the continuity of evidence has been maintained. Whatever evidence comes into an officer's possession, the officer must note the date, time and place on the case file and in a notebook.**

To maintain the continuity of evidence for the purposes of prosecution under the *Immigration and Refugee Protection Act* or the *Criminal Code*, officers must ensure that seized documents are kept in a secure area and handled by a minimum number of persons. The officer should:

- make a photocopy of the document and stamp certified true copy on each page and write their initials, the time and the date;
- seal the evidence in an envelope, write their initials across the envelope seal and secure it with transparent tape;
- write a description on the envelope of the contents, the name and file number of the person concerned, the officer's initials and the time and date.

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If an authorized officer needs to remove and examine evidence from the envelope, the officer must repeat the steps just described above when placing the evidence back in the envelope. If an officer only needs to refer to a document, the officer should refer to the certified true copy on file.

If a peace officer requires possession of the document from the immigration file for prosecution, an officer should:

- verify the contents of the envelope with the peace officer against the certified true copy on file; and
- complete a Document Transit and Receipt [form ADM 2491B] and place a copy on file.

An officer should make a note of these procedures, place the note on file for future reference and enter the information in the official notebook.

### **11.3. Liability for damage to property**

If a search results in damage to the traveller's vehicle or baggage, an officer must prepare a report indicating the extent of the damage and other relevant details of the examination. For regulations and policy for handling damage claims against the Crown, see part 41 of the Financial Management Manual. When a search brings no results, and the search caused damage to the person's belongings, it is policy to return the conveyance or item to its original state. When it is apparent that items may be damaged during a search because of their state of repair or fragility, the officer should take before and after photographs of the items, to avoid the CBSA from having to pay for damages unrelated to the search.

### **11.4. CBSA liability for damage to a vehicle**

CBSA officers who seize a vehicle should make a careful inventory of any damage that the vehicle has and should ask the person from whom the vehicle was seized or the owner to give written acknowledgement of the inventory, if they are present at the time.

A vehicle that is seized remains in the custody of the CBSA until all legislative requirements for its return or disposal have been complied with.

The CBSA may be liable for any damage caused to a vehicle in its custody depending on the factual circumstances of each case. Any damages caused to a vehicle while under seizure should be reported to the Regional office and to the Regional Director for appropriate assessment. Owners of a damaged seized vehicle may seek redress under a number of different laws.

### **11.5. Return of seized objects (R253)**

R253(2) provides that the Minister shall return a seized object as follows:

<b>Regulation</b>	<b>Explanation</b>
R253(2)(a)	Fraudulently or improperly obtained objects shall be returned to their lawful owner (if known) unless the person from whom they were seized applies under R256 and demonstrates that the object was not fraudulently or improperly obtained or used.
R253(2)(c)(i)	Objects seized to prevent their fraudulent use shall be returned to their lawful owner if the seizure is no longer necessary for preventing their fraudulent or improper use.
R253(2)(d)	Objects seized to carry out the purposes of the Act shall be returned to their lawful owner if the seizure is no longer necessary to carry out the purposes of the Act.

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R253(3) further stipulates that in all cases above an object shall be returned only if its return would not be contrary to the purposes of the Act.

The onus is on the Minister to return an object if any of these situations apply. It is not necessary for the person to make an application.

### 11.6. Application for return of thing seized in exchange for security (R254)

R254 allows a lawful owner of a thing seized or the person from whom it was seized to apply for its return in exchange for security in the following circumstances:

- the object seized is not a document;
- the object was seized because it was fraudulently or improperly used;
- its seizure is no longer necessary to prevent its fraudulent or improper use or to carry out the purposes of the Act; and
- the applicant provides security equal to the fair market value of the thing at the time of the seizure.

**Note:** R254(1) – In circumstances where both the lawful owner of a thing seized and the person from whom it was seized make an application for return under this subsection; a decision will be rendered on the lawful owner's application over the application of the person from whom it was seized.

R254(3) stipulates that the security taken replaces the thing seized. This provision allows a person to buy back a seized object by paying its full market value. In some cases, persons will use this provision to get immediate possession of their seized object while making a simultaneous application for its outright return under another section of the Regulations.

#### Estimate for market value of a vehicle for the purpose of R254

The estimated value of cars and small trucks can usually be established by using the *Canadian Older Car/Light Duty Truck Red Book* or an equivalent instrument of reference. If the value of the car or truck cannot be established with these instruments, a dealer may be consulted.

A bill of sale from a car dealer will usually be considered reliable since it should reflect the retail value of the vehicle. A bill of sale between private parties may reflect only the price agreed upon and not the value of the vehicle and, therefore, is less reliable. In these situations, the officer should confirm the value of the vehicle through some other means.

For other types of vehicles such as a bus, truck, van, airplane or ship, the officer may have to seek advice from a CBSA regional office or from the CBSA NHQ in order to identify a responsible expert on the matter.

The value of a vehicle declared in the registration of the transfer of ownership may not be reliable depending on where the vehicle was purchased. That value should be verified through other means. While it may not be difficult to establish an estimated value for some small boats or airplanes, it is more difficult in the case of large or commercial craft. Some cases may require expert advice.

#### Estimate of the market value of a seized object

Items may be estimated by using:

- the Internet to locate the identical item or one of approximate value;
- reports from newspapers, flyers, or other adds;

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- field experts (dealers, appraisers, sellers);
- phone calls to reputable shops.

An officer must consider that the value of an object will vary and that each assessment will differ to some degree.

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### **11.7. Application by lawful owner for return of thing seized (R255)**

R255 allows for the return of an object seized, because it was fraudulently or improperly used, to its lawful owner in the following circumstances:

- the lawful owner makes an application in writing within 60 days after the seizure;
- the applicant was the lawful owner prior to the seizure and remains the lawful owner;
- the applicant did not participate in the fraudulent or improper use of the object;
- the applicant exercised all reasonable care to satisfy themselves that the person permitted to obtain possession of the thing was not likely to fraudulently or improperly use it; and
- the return of the object would not be contrary to the purposes of the Act

• The burden of proof is on the applicant to demonstrate that these criteria are met.

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### **11.8. Disposing of a seized vehicle**

R253 to R257 set out the conditions under which a thing that was seized under A140 may be returned or otherwise disposed of. The Instrument of Delegation and Designation (IL 3) describes the powers that have been delegated and identifies the level of delegation. Things that are seized may be disposed of only as provided in the Regulations and following the decision of an officer who has been delegated to exercise that authority.

Because vehicles often have a high market value, many of the delegations for the disposition of seized vehicles are at the managerial level. Many situations will require advice from the CBSA's Legal Services.

Following the seizure of a vehicle, the officer will:

- place it in the custody of the CBSA;
- identify the owner;
- give written notice and reasons;
- prepare a report; and
- review the case in light of R253.

If the vehicle is not returned, the full report on the vehicle seizure is forwarded to the RDG. Samples of reports, memos and letters that may be used in these circumstances can be found in:

- Appendix G: (R254(2)) Sample memo to DG - Return of a vehicle on payment of security.
- Appendix H: (R255(2)) Sample memo to DG on application to return a rented car that was seized.

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- Appendix I: (R255(3)) Sample memo to DG for decision on application for return of vehicle.
- Appendix J: (R256(2)]) Sample memo to DG for decision on application for return of vehicle.

### **Sale or disposal of a seized vehicle**

If a vehicle is not returned under R253 and no application is received under R254, R255 or R256 or if an application under these sections is refused by the RDG, then the vehicle will be disposed of in accordance with R257.

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### **11.9. Application for return of seized vehicle on payment of \$5000 fee**

R255(3) allows for the return of a vehicle seized because it was fraudulently or improperly used to its lawful owner in the following circumstances:

- the lawful owner makes an application in writing within 60 days after the seizure;
- the applicant pays a \$5000 fee;
- the applicant was the lawful owner prior to the seizure and remains the lawful owner;
- the applicant did not profit or intend to profit from the fraudulent or improper use of the vehicle;
- the applicant is unlikely to contravene the Act in the future; and
- the return of the object would not be contrary to the purposes of the Act. The burden of proof is on the applicant to demonstrate that these criteria are met. This provision can be used by lawful owners who were party to the fraudulent or improper use of the vehicle if they can demonstrate that they did not profit or intend to profit and that they are unlikely to contravene the Act in the future. The \$5000 fee is a fine and, as such, is not refundable.

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### **11.10. Application to return a vehicle where there is no fraudulent or improper use [R255]**

R255 allows for the return of a thing, which was seized because it was fraudulently or improperly used, to the person from whom it was seized in the following circumstances:

- the person makes an application in writing within 30 days after the seizure; and
- the applicant demonstrates that the seized object was not fraudulently or improperly used.

The burden of proof is on the applicant to demonstrate that these criteria are met. The Minister will return the object if the person from whom it was seized demonstrates that the grounds for the seizure did not exist.

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### **11.11. Application for the return of seized travel and/or identity documents**

R255 allows for the return of travel and/or identity documents to the lawful owner. Individuals may apply for the return of seized travel and/or identity documents provided they are the lawful owner by:

- ◆ making an application using form BSF 699: *Application for the Return of Seized Identity Document(s)* within 60 days of seizure.

R256 allows for return of travel and/or identity documents to the person from whom a document was seized on grounds that it was fraudulently obtained or used. Individuals may apply for the

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return of seized travel and/or identity document(s) provided they can show that the document(s) was (were) not fraudulently or improperly obtained or used by:

- ◆ making an application using form BSF 699: *Application for the Return of Seized Identity Document(s)* within 30 days of seizure.

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**Note:** IMM 5265B should no longer be used to apply for the return of travel and/or identity documents.

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### 11.12. Notice of decision

An officer is required to notify the person in writing of the decision with respect to applications made under R253 or R255 for the return of seized objects and provide reasons.

### 11.13. Decision by the Minister not to return a seized object

If the decision following review made under R253, R254, R255 or R256 is not to return a seized object, then it remains in CIC or the CBSA custody (depending on the nature of the seizure and the item seized) or is disposed of in accordance with R257.

Examples of things that would not be returned are:

- fraudulent documents (photo-substituted passports, travel documents);
- lost or stolen items;
- altered documents (passports with illegal alterations, pages missing);
- counterfeit money;
- illegally obtained driver's licence, social security or credit cards.

#### Sale or destruction of a seized object

R257 provides for objects of monetary value (other than documents) to be sold. In cases where an object has no monetary value or the costs of the sale would exceed the monetary value of the object, the object is destroyed.

#### Suspension of sale

R257(2) provides that an object should not be sold during the 15-day period following notification that the object would not be returned, or before a final decision is made in any judicial proceeding in Canada relating to its seizure or return.

#### Forfeiture of security given under R254(2)(b)

R254(3) provides that if security has been given in place of a seized object under section R254(2)(b), this replaces the object seized. If section R257 applies to the object, any cash deposit is forfeited and the guarantees of performances become a debt owed to the Crown.

### 11.14. Disposition of documents

When returning a document, an officer should record the details on the file and complete the reverse of the form BSF 699, IMM 5079 or IMM 5265, as the case may be, to show that the document has been returned. For example:

"Passport number 12345 issued in Norway was returned to the holder John Doe, date of birth, on 27 February 2002."

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Section R257(3) requires that if a seized document is not returned, it shall be retained for as long as is necessary for the administration or enforcement of Canadian laws, after which it is governed by the applicable laws relating to the disposal of public archives.

Before retiring a file, an officer should return other documents (such as Social Insurance Number cards) to the issuing authority with a memorandum outlining how they came into the possession of CIC or the CBSA.

### 11.15. Procedures for disposing of fraudulent documents

R257(3) prescribes that the seized document is retained as long as it is necessary for the administration or enforcement of Canadian law. Therefore, an officer should not return the following documents to the person from whom they were seized:

- altered documents (examples of alterations include photo-substitution and page substitution) and alterations of variable mentions (such as date of birth or name) or erasures, and unauthorized additions (counterfeit entry and/or exit stamps and/or visas);
- counterfeit documents;
- improperly obtained or issued documents; and
- fantasy or fictitious documents.

Officers should send these fraudulent documents and suspect items to their Regional Intelligence Units.

The Regional Intelligence Units may keep some documents as training tools. Should they not be kept as training tools, all known or suspected fraudulent documents, including documents containing counterfeit visas or stamps and all altered or fantasy documents, should be forwarded by secure means to:

Manager, Document Integrity Unit  
International Operations Directorate  
191 Laurier Avenue West, 10<sup>th</sup> Floor  
Ottawa, Ontario K1A 0L8  
613-219-0180 (for courier deliveries)

An e-mail should be sent to the Document Integrity Unit (DIU) mailbox ( [I](mailto:) ) indicating that the document(s) are being sent.

### 11.16. Sending documents for analysis

If officers require analysis of a document for a determination of admissibility, investigation or for any other purpose, they must send the document and the completed BSF 698, IMM 5079B or IMM 5265B to the Regional Intelligence Office (RIO) in regions where document analysis capacity exists.

Officers should contact the regional document examiner for specific instructions for sending document(s). As part of the request for a document assessment, officers must complete the assessment referral form as follows:

- the details about the document being sent;
- the date when the document analysis report is required;
- the purpose of analysis;

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- the reason for the return of the document;
- the date, if known, for the return of the document;
- the return address.

If an officer requires that the original document is returned for a hearing or other purpose, the initial request for analysis should clearly state the date for which the document(s) is/are required.

The form along with the documents to be analyzed, should be sent by secure mail to the RIO. A copy of the Assessment Referral Form should also be forwarded to the Document Integrity Unit at National Headquarters via

For a list of Document Examiners by Region, please refer to the CBSA intranet (Atlas) at the following link:

The RIO must return the analysis to the requesting officer. Documents that are determined to be fraudulent will be retained by the RIO, but if necessary may be made available to the officer who filed the request for analysis

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## **12. Procedure: Fingerprinting**

### **12.1. Authority to fingerprint**

A16 provides the legal authority to fingerprint foreign nationals making applications under the *Immigration and Refugee Protection Act*. This includes foreign nationals who are applying:

- to enter Canada;
- for visas or other documents at a visa office;
- for permanent residence in Canada;
- to vary or cancel conditions imposed; or
- for refugee protection.

A16(3) provides authority to fingerprint any permanent resident or foreign national who is arrested, detained or under a removal order.

It is departmental policy that all refugee claimants aged 14 and over should be fingerprinted.

### **12.2. Privacy notice**

In accordance with Treasury Board Policy on Data Protection and Privacy, where a department collects personal information directly from individuals, it is required to inform individuals of the following:

1. the purpose of the collection;
2. whether the response is voluntary or required by law;
3. any possible consequences of refusal to respond;

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4. that the individual to whom the information pertains has rights to access and protection under the *Privacy Act*; and
5. the registration number of the Personal Information Bank (PIB) in which the information is retained.

Accordingly, the following Privacy Notice must be posted at all LiveScan automated fingerprint systems sites.

### Privacy Notice

To individuals who are required to submit fingerprints and photographs to the Canada Border Services Agency (CBSA):

#### Legislative authority and purpose of collecting fingerprints and photographs

Where fingerprints and photographs are requested by a CBSA officer or investigator, compliance is required by law. The legal authorities to collect personal information are outlined below and include one or both of the following:

- sections 10.01 and 16 of the *Immigration and Refugee Protection Act* (IRPA) and section 12.1 of the *Immigration and Refugee Protection Regulations* for the purposes of assessing the claim, application or request under the IRPA or establishing identity or compliance with the IRPA; failure to provide this information may result in any or all of the following: the refusal of the claim, application or request; a finding of inadmissibility; and criminal charges for failing to comply with the IRPA
- section 2 of the *Identification of Criminals Act* for the purposes of identifying people who may have committed an offence against Canada's border legislation; compliance is enforced, per this Act

The information may be disclosed with other law enforcement agencies, pursuant to **subsection 8(2)** of the *Privacy Act*.

#### Retention and disposal standards

Records are retained for 15 years from the time of the most recent biometric collection and are systematically destroyed after 15 years or upon granting of Canadian citizenship. For those deemed inadmissible under sections 34 to 37 of the IRPA, fingerprints are retained until the person reaches the age of 100, and then the fingerprints are destroyed.

Records disposition authorities number: 2015/008

Bank number: CBSA PPU 1203

#### Access to personal information

Individuals have the right to access and make corrections to their personal information, under the *Privacy Act*. The information collected is described in Info Source, under the CBSA PPU 1203, which is detailed in the CBSA Info Source Chapter. Anyone who has concerns about the CBSA's handling of personal information has the right to file a complaint with the Privacy Commissioner of Canada.

Details on these matters are available online, at Information about programs and information holdings. Info Source is also available in Canadian public libraries. For further information, contact

Access to Information and Privacy Coordinator  
Strategic Policy Branch  
Canada Border Services Agency  
333 North River Road  
Ottawa, ON K1A 0L8

# ENF 12 Search, Seizure, Fingerprinting and Photographing

## 12.3. Taking fingerprints

Officers are to use LiveScan automated fingerprint systems wherever they are available. Ink and roll prints are only to be used when a LiveScan machine is not available.

## 12.4. Fingerprinting (ink and roll method)

The ink and roll method should only be used when LiveScan is not available. To take a proper set of ink and roll fingerprints, an officer needs the following:

- a print take ink strip: an inked strip containing a special ink for fingerprinting (some offices use inkless pads);
- a print retainer pad: a rubberized pad to hold the ink strip flat;
- a print form holder: a holder that contains the fingerprint form;
- a pen; and
- a stand or table to hold the materials.

### Fingerprint forms

**C-216C** (Civil Fingerprint Form): This form is green in colour and is designed for civil purposes such as visa applications, civil security checks and applications for permanent residence.

**C-216** (Criminal Fingerprint Form): This form is brown in colour and is designed for criminal record searches or charges.

**C-216R** (Refugee Fingerprint Form): This form is blue in colour and is designed specifically for refugee applicants. The C-216R incorporates the office RC number and the FOSS number. The bottom right-hand corner is designed to accept the client's photo.

### Loading the fingerprint form:

Before inserting the fingerprint form into the holder, the form should be creased horizontally along three lines:

- the horizontal spaces designated for rolled impressions of the right hand;
- the spaces for the rolled impressions of the left hand; and
- the space for the plain impression.

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**Note:** Creasing fingerprint forms is only done for ink-roll procedures.

By making these three folds, the form will lie flat and not bulge after it is inserted into the holder.

The fingerprint form should be inserted in the holder so that the spaces designated for the rolled impressions of the right hand are on the flat, horizontal surface.

The person to be fingerprinted should stand at forearm's length from the fingerprint stand. The officer may stand either to the left or the right (whichever is more convenient) and slightly in front on the person being fingerprinted. The person should be advised to relax. A completely relaxed position is most desirable because any tension in the hands interferes with the free movement of the fingers which is necessary for successful fingerprinting. It also prevents officers from gauging the amount of pressure needed when they ink and print the digits.

The hands of the person being fingerprinted must be clean. While normal washing with soap and water is all that is required, persons with fine, shallow friction skin ridges should, regardless of the cleanliness of their hands, wash in very warm water before being fingerprinted. Warm water has a tendency to swell the ridges and this technique results in clear, sharp impressions. The person's hands must be completely dry before fingerprinting. Persons whose hands perspire freely should

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wipe each digit dry immediately before printing.

### **12.5. Fingerprinting the person (ink and roll)**

To take ink roll fingerprint impressions, an officer should:

- beginning with the person's right hand and with the fingers closed, grasp the right thumb at the base with either the right or left hand (depending on which side of the person an officer is standing), supporting its tip with the thumb and index finger of the other hand;
- roll the thumb on the ink strip so that the entire bulbous portion (the fingerprint pattern area) is inked, from one edge of the nail to the other, and covering the area from the crease of the end joint to the tip of the digit as far as the rolling will permit;
- while still maintaining hold of it, roll the thumb firmly with a similar, continuous and even motion, on the designated right-thumb area of the fingerprint form, rotating the digit a full half turn, again from one edge of the nail to the other; this complete rolling is absolutely necessary to ensure that the entire pattern is reproduced for correct classification;
- ink each of the four fingers of the hand and reproduce them in their respective order in exactly the same manner, and then follow with the left hand.

When fingerprinting the thumb or any finger, it is important that the person holds their remaining digits in a clenched hand formation (a fist), so that they do not in any way interfere with the inking and printing movement.

#### **Requirements for good fingerprints:**

- Clearly defined rolled impressions (cores and deltas must be present).
- Clearly defined plain (slap) impressions.
- Clearly defined palm prints.
- Clearly defined ridges (no smears, smudging, broken lines or distortion).

#### **Taking good fingerprints**

To take good fingerprints, an officer should:

- before taking the first set of prints, ask for a demonstration from an experienced officer;
- practice taking a colleague's prints;
- not roll the subject's fingerprint on the ink pad in the same place twice; re-attach the ink pad cover and rub it to smooth out the ridges in the ink;
- not apply too much pressure to the finger when taking the print; (The darkness of the fingerprint on the form is a result of the amount of ink used, not the pressure. If done properly, the weight of the finger should be sufficient to produce a good quality print as long as the officer inked the finger properly.)
- develop a routine by printing the fingers in the order in which they appear on the form; at all times, start with the right thumb, continuing with the right index through to the right little finger, and then following with the left thumb, and left forefinger through to the left little finger. (Misplaced rolled impressions on the fingerprint form would result in a non-existent classification, which could never be successfully searched in the fingerprint bureau.)
- roll thumbs inwardly and fingers outwardly. While there is no set rule governing the direction of rotation of the digits during the inking and printing process, experience has shown that

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there is a natural tendency for thumbs to yield to an inwardly rotating motion (rolling the right thumb counter clockwise and the left thumb clockwise) and for the fingers to an outwardly rotating motion (rolling the right hand fingers clockwise and those of the left hand counter clockwise).

- always centre the core area of the rolled impressions.

### Plain impressions of hand

To take plain impressions in the lower portion of the fingerprint form, the officer should:

- take the impressions with the four fingers of the hand extended;
- working with one hand at a time, place the fingers simultaneously on the ink strip, applying firm pressure equally to all to ensure even inking;
- place the hand on the appropriate space on the form, again exerting even pressure to ensure uniform simultaneous printing;
- allow for flattening of the inked fingers. The fingers should not be held together too tightly. This will ensure the reproduction of the greatest possible portion of the pattern in each finger. Ink and record the thumbs similarly in the appropriate spaces without rolling.

Plain impressions serve to verify the accuracy of the sequence of the rolled impressions for the classifier and searcher in the Fingerprint Section of the RCMP.

### 12.6. Completing the ink and roll fingerprint form

If a client is fingerprinted via the traditional ink and roll process, the officer should ensure the bottom half of the fingerprint form is completed as follows:

Field	Action required (ink and roll fingerprints)
Contributing Agency	Enter the complete mailing address of the CBSA or CIC office.
Contributor's Number	The Contributor's Number includes the file number and FOSS ID number. Do not use the upper right corner box of the fingerprint form. That is for RCMP use only.
Occupation	Enter subject's occupation.
Peculiarities, etc	Include only those that are obvious, as well as any physical abnormalities and mannerisms. Describe the person using specific observed physical characteristics.
Other names, aliases, nicknames, maiden name, etc.	If no known alias, leave this field blank.
Case Handled by	Complete only when the case is being handled by an officer other than the contributor of the fingerprints.
Charge and Disposition	Do not enter foreign convictions, or description of foreign convictions.

### 12.7. Requirement to record legal reason for fingerprint search

It is important that officers record the statutory authority, under the *Immigration and Refugee Protection Act*, for taking fingerprints. Stating the statutory authority gives the RCMP legal authority to search fingerprints on behalf of the Canada Border Services Agency and Citizenship and Immigration Canada. Fingerprints with no Statutory Authority will not be processed by the RCMP and will be returned to the issuing office for correction and resubmission.

## ENF 12 Search, Seizure, Fingerprinting and Photographing

Officers will stamp << Criminal Record Inquiry - Authority - Section 16 IRPA - CBSA/CIC >> in the bottom portion of the C-216 criminal fingerprint form.

**Note:** It is not necessary to enter the Canadian search reason when using the C216R refugee fingerprint form.

### Sample stamp on C-216 fingerprint form:

Date and Place of Sentence Date et lieu de la sentence	Charge-Exact Section-Statute Accusation - article exact de la loi	Disposition - Décision
	<b>Criminal Record Inquiry Authority - Section 16 IRPA CBSA/CIC</b>	

### 12.8. Requests for foreign searches with ink and roll fingerprints

Requests for foreign criminal background checks from foreign governments are submitted in writing to the RCMP. Response times for such requests can be lengthy and information may not always be obtainable.

Handwriting should be neat and legible.

Photographs should be retained on file and only sent to the RCMP upon their request.

All C-216 and C-216R ink and roll fingerprint forms should be sent to:

Commissioner, RCMP  
Attention: Officer in Charge  
Immigration and Passport Branch  
Room H-421  
1200 Vanier Parkway  
Ottawa, Ontario  
K1A OR2

All ink and roll fingerprints submitted to the Immigration and Passport section of the RCMP are checked for registered convictions and charges and against the Refugee Data Bank. Requests for an FBI or Interpol search must be addressed in writing to the RCMP (for ink and roll prints).

All C-216C forms should be sent to:

Commissioner, RCMP  
Attention: Identification Services Directorate  
Civil Section  
P.O. Box 8885  
Ottawa, Ontario  
K1G 3M8

Fingerprints of Convention refugees will be destroyed when the person becomes a Canadian citizen. CIC will notify the RCMP when a person obtains citizenship.

## 13. Photographing

### 13.1. Authority to photograph

Section A16 provides the legal authority to photograph foreign nationals making applications under the Act. This includes foreign nationals who are applying:

## ENF 12 Search, Seizure, Fingerprinting and Photography

- to enter Canada;
- for visas or other documents at a visa office;
- for permanent residence in Canada;
- to vary or cancel conditions imposed; or
- for refugee protection.

A16(3) provides authority to photograph any permanent resident or foreign national who is arrested, detained or under a removal order. Officers should be considerate of religious and cultural sensitivities when taking photographs. For example, photographing women who are obliged by their customs to wear a veil may only be permissible if carried out by another woman.

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**Note:** 18% gray backdrop is the internationally recommended standard.

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### 13.2. Taking photographs

When taking photographs, officers should:

- ensure there is clear or sufficient lighting;
- select a light background that will provide contrast and enhances the image;
- have glasses, sunglasses, excessive jewellery or anything that may impair the picture removed;
- ensure that hair does not cover the face;
- ensure the person's eyes are open;
- ensure the picture is taken from an appropriate distance;
- retake the picture making the appropriate adjustments if the quality of the photo is poor.
- Officers should take as many pictures as they deem reasonable. Extra pictures should be taken and attached to the person's file to be used as necessary at a later date.

### 13.3. Photographing minors

A16 provides authority to photograph foreign nationals making an application and this includes minor children. A photograph can be an important means of identifying a child.

An officer should keep in mind that the comfort level of the child is very important. It is usually best to photograph a child in the presence of a parent or guardian. A child who is not comfortable being photographed alone may be photographed in the arms of a parent or legal guardian.

# ENF 12 Search, Seizure, Fingerprinting and Photographing

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## Appendix A Information to Obtain A Search Warrant – Form 1

**CANADA**

*Province of Alberta*

*Province de l'Alberta*

*File No.  
N° de référence*

*Form 1      Formulaire 1  
Criminal Code      Code Criminel  
Section 487      Article 487*

### **Information to Obtain A Search Warrant Dénonciation en vue d'obtenir un mandat de perquisition**

***THIS IS THE INFORMATION OF  
LES PRÉSENTES CONSTITUENT LA DÉNONCIATION DE***

---

***a Peace Officer of THE CANADA BORDER SERVICES AGENCY  
un agent de la paix de L'AGENCE DES SERVICES FRONTALIERS DU CANADA***

***THE INFORMANT SAYS THAT THERE ARE REASONABLE GROUNDS OF BELIEVING THAT  
LE DÉNONCIATEUR DÉCLARE QU'IL A DES MOTIFS RAISONNABLES DE CROIRE QUE***

***Certain things, to wit:  
les choses suivantes (ci-après appelées « lesdites choses ») :***

---

---

---

***HEREINAFTER referred to as the said "things", which will afford evidence,  
fourniront la preuve***

***THAT/QUE***

---

---

---

***AND THAT he has reasonable grounds for believing that the things, or some part of them, are in the  
Le dénonciateur a également des motifs raisonnables de croire que lesdites choses ou une partie d'entre elles se  
trouvent dans***

***of/de***

---

***in the CITY OF CALGARY, in the Province of ALBERTA, hereinafter called "the location".  
dans la ville de CALGARY, province de l'ALBERTA (ci-après appelé « l'emplacement »).***

## ENF 12 Search, Seizure, Fingerprinting and Photographing

### ***MY GROUNDS FOR BELIEF ARE MES MOTIFS JUSTIFIANT LA PERQUISITION SONT***

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***WHEREFORE the informant prays that a search warrant may be granted to search the said location for the said things.***

***EN CONSÉQUENCE, le dénonciateur demande qu'un mandat de perquisition soit accordé pour perquisitionner dans ledit emplacement en vue de trouver lesdites choses.***

***SWORN before me this  
Assermenté devant moi***

***\_\_\_\_ Day of \_\_\_\_, 20\_\_\_\_, A.D.  
le \_\_\_\_ jour du mois de \_\_\_\_ 20\_\_\_\_  
at / à Calgary, Alberta.***

---

***Signature of informant  
Signature du dénonciateur***

---

***(Judge of the Provincial Court)  
(Justice of the Peace) In and for the  
Province of Alberta  
(Juge de la cour provinciale)  
(Juge de paix) dans et pour la  
province de l'Alberta***

# ENF 12 Search, Seizure, Fingerprinting and Photographing

## Appendix B Information to Obtain a Search Warrant – Form 1 (Sample)

CANADA

*Province of Alberta*

*Province de l'Alberta*

*File No.*

*N° de référence*

**4604-12345678**

*Form 1      Formulaire 1*

*Criminal Code   Code Criminel*

*Section 487   Article 487*

### ***Information to Obtain A Search Warrant***

*Dénonciation en vue d'obtenir un mandat de perquisition*

***THIS IS THE INFORMATION OF***

***LES PRÉSENTES CONSTITUENT LA DÉNONCIATION DE***

Bill JONES (Badge#1234)

*a Peace Officer of THE CANADA BORDER SERVICES AGENCY*

*un agent de la paix de L'AGENCE DES SERVICES FRONTALIERS DU CANADA*

***THE INFORMANT SAYS THAT THERE ARE REASONABLE GROUNDS OF BELIEVING THAT***  
***LE DÉNONCIATEUR DÉCLARE QU'IL Y A DES MOTIFS RAISONNABLES DE CROIRE QUE***

***Certain things, to wit:***

***Les choses suivantes (ci-après appelées « lesdites choses ») :***

Records of Acme Communications Inc., including all Subsidiaries, pertaining to all cellular towers that have received data from the cellular phone with number (403) 555-1234, between the dates of April 20th, 2002 to May 3rd, 2002. Further to this, the full name, date of birth, address, and any other contact information held by Acme Communications Inc., including all subsidiaries, regarding the lawful owner of the cellular telephone with number (403) 555-1234.

***HEREINAFTER referred to as the said "things", which will afford evidence,***  
***fourniront la preuve***

***THAT/QUE***

On April 20<sup>th</sup>, 2002, near Calgary, Alberta, Mr. John SMITH, a foreign national born in Portland, Oregon on September 4<sup>th</sup>, 1971, did come into Canada contrary to s.124(1)(a) by way of 27(1) of the *Immigration and Refugee Protection Act*, namely that s. 124(1)(a) states “Every person commits an offence who contravenes a provision of this Act for which a penalty is not specifically provided or fails to comply with a condition or obligation imposed under this Act”, namely that Mr. Smith failed to appear without delay before an officer at a port of entry as obligated to do so pursuant to section 18(1) of the Act,” and, as per section 125 of the Act “ is liable (a) on conviction on indictment, to a fine of not more than \$50,000 or to imprisonment for a term of not more than two years, or to both; or (b) on summary conviction, to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or to both.” Furthermore, a warrant for arrest under section 55(1) of this Act was issued for Mr. Smith on May 3<sup>rd</sup>, 2002 in Calgary, Alberta as a result of the aforementioned offence.

***AND THAT he has reasonable grounds for believing that the things, or some part of them, are in the***

## **ENF 12 Search, Seizure, Fingerprinting and Photographing**

**LE DÉNONCIATEUR a également des motifs raisonnables de croire que lesdites choses ou une partie d'entre elles se trouvent dans**

Records at Acme Communications Inc. (including all subsidiaries)

**of/ de**

3<sup>rd</sup> Floor (Security Wing), 123 – 1<sup>st</sup> Street SW, Calgary, Alberta, Canada, T1A 2B3

**in the CITY OF CALGARY, in the Province of ALBERTA, hereinafter called "the location".  
dans la ville de CALGARY, province de l'ALBERTA, ci-après appelé "l'emplacement".**

### **MY GROUNDS FOR BELIEF ARE**

### **MES MOTIFS JUSTIFIANT LA PERQUISTION SONT**

1. The informant, Bill JONES, is an immigration officer with the Canada Border Services Agency in Calgary, Alberta and was first sworn as an immigration officer on May 1<sup>st</sup>, 1998. In the course of employment as an immigration officer, the informant has received training on the tracking and apprehension of wanted persons during the 2002 Fugitive Conference held jointly between the Toronto Metropolitan Police Service and the United States Marshal Service in Toronto, Ontario. During this course, the informant received specific training on the use of cellular phone records to assist in establishing the whereabouts of wanted person. The informant can give an informed opinion on certain facts and circumstances as they relate to locating the whereabouts of wanted persons by utilizing cellular phone records.
2. On May 1<sup>st</sup>, 2002, the informant did interview in person one Sergeant Jim WILLIAMS of the Calgary Police Service in Calgary, Alberta. Sergeant Williams has served with the Calgary Police Service since 1997 and has authority and to access the Calgary International Airport security services, including access to all security surveillance camera equipment. Sergeant Williams told the informant that he personally reviewed the security surveillance camera data at the Calgary International Airport and has also reviewed the Watch-For posters received by the Calgary Police Service from the United States Marshal Service. During this interview the following was learned:
  - a) That on April 20<sup>th</sup>, 2002, a security surveillance camera at the Calgary International Airport arrivals terminal recorded a Caucasian male, approximately 6' tall with a slight build and short straight blond hair, and having a tattoo on his right arm. This male subject avoided the Primary Inspection Line at the Calgary port of entry by forcing an emergency door open and then leaving the secured arrivals area.
  - b) This male subject matched the description of a person known to the Calgary Police Service from a Watch-For poster as John SMITH, born in Portland, Oregon on September 4<sup>th</sup>, 1971. This poster stated that Mr. Smith is (was) wanted by the United States Marshal Service on a United States-wide warrant as a result of his failure to appear for a court sentencing hearing on April 18<sup>th</sup>, 2002 in Seattle, Washington. This hearing resulted from an assault causing bodily harm conviction entered on April 17<sup>th</sup>, 2001 by Judge Susan MILLER of the Supreme Court of Washington State, First District Court of King County.
3. On May 1<sup>st</sup>, 2002 the informant did interview by phone one Deputy Richard ADAMS of the United States Marshal Service in Seattle, Washington. Deputy Adams has been assigned the task of investigating the whereabouts of Mr. Smith. Through this investigation, Deputy Adams has developed extensive knowledge of Mr. Smith's biographical data, property retained during his incarceration, and criminal history. Deputy Adams is the author of the Watch-For poster that was forwarded to the Calgary Police Service. During this interview the following was learned:
  - a) that a Mr. John SMITH born in Portland, Oregon on September 4<sup>th</sup>, 1971 has an outstanding warrant for arrest in the United States for failing to appear at a court sentencing hearing on April 18<sup>th</sup>, 2002 in Seattle Washington.
  - b) that the United States Marshal Service did issue a Watch-For poster to the Calgary Police Service due to their belief Mr. Smith may flee to Canada to avoid arrest.

## ENF 12 Search, Seizure, Fingerprinting and Photography

c) that Mr. John Smith had in his personal effects at the time of his release from the King County Jail on April 17<sup>th</sup>, 2002, a cellular telephone with the number of (403) 555-1234; a number that bears an area code for Southern Alberta.

4. On May 1<sup>st</sup>, 2002, the informant did interview in person one Lisa MILLER of Acme Communications Inc. in Calgary, Alberta. Ms. Miller is employed in the security department of Acme Communications Inc. and through the course of her work has access to cellular phone account information and has technical training regarding how cellular phones operate. During this interview the following was learned:

- The cellular telephone with number (403) 555-1234 was active as of May 1<sup>st</sup>, 2002 and that this cellular phone is registered to a Mr. J. Smith of Banff, Alberta.
- The location of the phone could be obtained by triangulating the signal of the cellular towers receiving the phones unique identification signal, and that Acme Communications Inc. possesses both the data and equipment that could be utilized to track the cellular phone with number (403) 555-1234.

5. The informant believes through his experience as an investigator, that a person who has a cellular phone normally keeps it on their person and that by locating the cellular phone, there is a high probability of locating the owner of this phone.

6. On May 2<sup>nd</sup>, 2002, the informant reviewed records held by the Canada Border Services Agency and learned that a warrant for arrest for Mr. Smith was issued by the Minister's delegate in Calgary, Alberta, on May 2<sup>nd</sup>, 2002 under the authority of section 55(1) of the *Immigration and Refugee Protection Act* and that Mr. Smith was ordered deported from Canada on September 14<sup>th</sup>, 1992 by Adjudicator Jill SUMMERS of the Immigration Adjudication Division in Calgary, Alberta. These same records show that Immigration Officer Brad ANDREWS confirmed the removal of Mr. Smith from Canada at the Calgary International Airport on September 15<sup>th</sup>, 1992.

***WHEREFORE the informant prays that a search warrant may be granted to search the said location for the said things.***

***EN CONSÉQUENCE, le dénonciateur demande qu'un mandat de perquisition soit accordé pour perquisitionner dans ledit emplacement en vue de trouver lesdites choses.***

***SWORN before me this  
Asermenté devant moi  
3rd Day of May 2002, A.D.  
Fait le  
at / à Calgary, Alberta.***

---

***Signature of informant  
Signature du dénonciateur***

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***(Judge of the Provincial Court)  
(Justice of the Peace) In and for the  
Province of Alberta  
(Juge de la cour Provinciale)  
(Juge de paix) dans et pour la  
province de l'Alberta***

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## Appendix C Warrant to Search - Form 5

# ENF 12 Search, Seizure, Fingerprinting and Photographing

CANADA

*Province of Alberta*  
*Province de l'Alberta*

*File No.*  
*N° de référence*

*Form 5      Formulaire 5*  
*Criminal Code      Code Criminel*  
*Section 487      Article 487*

## *Warrant to Search* *Mandat de perquisition*

*To the Peace Officers in the City of Calgary, Province of Alberta :*  
*Aux agents de la paix de la ville de Calgary, province de l'Alberta :*

*WHEREAS it appears on the oath of*  
*ATTENDU QU'il appert de la déposition sous serment de*

*a Peace Officer of the Canada Border Services Agency, that there are reasonable grounds of believing that*  
*agent de la paix de L'Agence Des Services Frontaliers Du Canada, qu'il existe des motifs raisonnables de croire que*

*Certain things to wit:*  
*les choses suivantes (ci-après appelées « lesdites choses ») :*

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*HEREINAFTER referred to as the said "things", which will afford evidence, fourniront la preuve*

*THAT/QUE*

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---

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*AND THAT he has reasonable grounds for believing that the things, or some part of them, are in the ET QU'il existe des motifs raisonnables de croire que lesdites choses ou une partie d'entre elles se trouvent dans*

**ENF 12 Search, Seizure, Fingerprinting and Photographing**

*of/de*

---

*in the CITY OF CALGARY, in the Province of ALBERTA, hereinafter called "the location".  
dans la ville de CALGARY, province de l'ALBERTA (ci-après appelé « l'emplacement »).*

*THIS IS THEREFORE to authorize and require you between the hours of  
À CES CAUSES, LES PRÉSENTES ONT POUR OBJET de vous autoriser et obliger à entrer, entre  
les heures de*

---

*to enter into the said location and to search for the said things and bring them before me or some other  
Judge or Justice.*

*dans ledit emplacement et de rechercher lesdites choses et de les apporter devant moi ou devant tout  
autre juge ou juge de paix.*

*DATED \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_, A.D.  
Fait le \_\_\_\_\_ jour du mois de \_\_\_\_\_ 20\_\_\_\_\_  
at / à Calgary, Alberta.*

---

*(Judge of the Provincial Court)  
(Justice of the Peace) In and for the  
Province of Alberta  
(Juge de la cour provinciale)  
(Juge de paix) dans et pour la  
province de l'Alberta*

## ENF 12 Search, Seizure, Fingerprinting and Photographing

### Appendix D Warrant to Search – Form 5 (Sample)

CANADA

*Province of Alberta.*

*Province de l'Alberta*

*File No*

*N° de référence*

**4604-12345678**

*Form 5      Formulaire 5*

*Criminal Code   Code Criminel*

*Section 487   Article 487*

### *Warrant to Search Mandat de perquisition*

*To the Peace Officers in the City of Calgary, Province of Alberta  
Aux agents de la paix de la ville de Calgary, province d' Alberta*

*WHEREAS it appears on the oath of  
ATTENDU QU'il appert de la déposition sous serment de*

*Bill JONES (Badge #1234),*

*a Peace Officer of THE CANADA BORDER SERVICES AGENCY, that there are reasonable grounds  
of believing that*

*un agent de la paix de L'AGENCE DES SERVICES FRONTALIERS DU CANADA, qu'il existe des  
motifs raisonnables de croire que*

*Certain things, to wit:*

Records of Acme Communications Inc., including all subsidiaries, pertaining to all cellular towers that have received data from the cellular phone with number (403) 555-1234, between the dates of April 20th, 2002 to May 3rd, 2002. Further to this, the full name, date of birth, address, and any other contact information held by Acme Communications Inc., including all subsidiaries, regarding the lawful owner of the cellular telephone with number (403) 555-1234.

*HEREINAFTER referred to as the said "things," which will afford evidence,  
CI-APRÈS APPELÉES lesdites choses fourniront la preuve,*

*THAT/QUE*

On April 20<sup>th</sup>, 2002 near Calgary, Alberta, Mr. John SMITH, a foreign national born in Portland, Oregon on September 4<sup>th</sup>, 1971, did come into Canada contrary to s.124(1)(a) by way of 27(1) of the *Immigration and Refugee Protection Act*, namely that s. 124(1)(a) states "Every person commits an offence who contravenes a provision of this Act for which a penalty is not specifically provided or fails to comply with a condition or obligation imposed under this Act", namely that Mr. Smith failed to appear without delay before an officer at a port of entry as obligated to do so pursuant to section 18(1) of the Act,"and, as per section 125 of the Act, "is liable (a) on conviction on indictment, to a fine of not more than \$50,000 or to imprisonment for a term of not more than two years, or to both; or (b) on summary conviction, to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or to both." Furthermore, a warrant for arrest under section 55(1) of this Act was issued for Mr. Smith on May 3<sup>rd</sup>, 2002 in Calgary, Alberta as a result of the aforementioned offence.

## **ENF 12 Search, Seizure, Fingerprinting and Photographing**

***AND THAT he has reasonable grounds for believing that the things, or some part of them, are in the  
ET QU'IL a des motifs raisonnables de croire que lesdites choses ou une partie d'entre elles se trouvent  
dans***

Records at Acme Communications Inc. (including all subsidiaries)

***of/ de***

3<sup>rd</sup> Floor (Security Wing), 123 – 1<sup>st</sup> Street SW, Calgary, Alberta, Canada, T1A 2B3

***in the CITY OF CALGARY, in the Province of ALBERTA, hereinafter called "the location".  
dans la ville de CALGARY, province de l'ALBERTA, ci-après appelé "l'emplacement".***

***THIS IS THEREFORE to authorize and require you between the hours of  
A CES CAUSES, LES PRÉSENTES ONT POUR OBJET de vous autoriser et obliger à entrer, entre  
les heures de***

6 am to 9 pm on May 6<sup>th</sup>, 2002, and each day thereafter during the same hours up to 9 pm on May 10<sup>th</sup>, 2002

***to enter into the said location and to search for the said things and bring them before me or some other  
Judge or Justice.***

***dans ledit emplacement et de rechercher lesdites choses et de les apporter devant moi ou devant tout  
autre juge ou juge de paix.***

***DATED 3rd Day of May 2002, A.D.  
Fait le \_\_\_\_\_ jour de \_\_\_\_\_ 2002, A.D.  
at / à Calgary, Alberta.***

---

***(Judge of the Provincial Court)  
(Justice of the Peace) In and for the  
Province of Alberta  
(Juge de la cour Provinciale)  
(Juge de paix) dans et pour la  
province de l'Alberta***

## ENF 12 Search, Seizure, Fingerprinting and Photographing

### Appendix E Report to a Justice – Form 5.2

**CANADA**

**Province of Alberta**  
**Province de l'Alberta**

*File No.*  
*N° de référence*

**Form 5.2      Formulaire 5.2**  
**Criminal Code Code Criminel**  
**Section 489.1 Article 489.1**

### ***Report to a Justice*** ***Rapport à un juge de paix***

***I / Je soussigné \_\_\_\_\_ a Peace Officer of THE CANADA BORDER SERVICES AGENCY***  
***un agent de la paix de L'AGENCE DES SERVICES FRONTALIERS DU CANADA,***

Have pursuant to / conformément à

- Section 487 of the Criminal Code (Search Warrant) or*  
*l'article 487 du Code criminel (mandat de perquisition) ou*
- Section 487.01 of the Criminal Code (General Warrant) or*  
*l'article 487.01 du Code criminel (mandat général) ou*
- Section 489 of the Criminal Code (Additional Items Seized via Search Warrant) or*  
*l'article 489 du Code criminel (autres articles saisis en vertu d'un mandat de perquisition) ou*
- Otherwise in the execution of duties (Common Law) or*  
*autrement, dans l'exercice de mes fonctions (common law) ou*
- Other Statute (specify / préciser)*  
*en vertu d'une autre loi fédérale \_\_\_\_\_*

***Searched the premises situated at:***

***ai perquisitionné les lieux suivants :*** \_\_\_\_\_

***On \_\_\_\_\_ and seized the following things and dealt with them as follows:***

***Le \_\_\_\_\_ et ai saisi les choses suivantes et en ai disposé de la façon suivante :***

***Type of Occurrence/Genre d'événement :*** \_\_\_\_\_

Describe each thing seized. State whether it was returned to the person lawfully entitled to its possession, in which case the receipt therefore shall be attached hereto, or it is being detained to be dealt with according to law and the location and manner in which, or where applicable the person by whom, it is being detained.

Décrire chaque chose saisie. Indiquer si les choses ont été remises à la personne ayant droit à leur possession, auquel cas un reçu doit être joint au présent rapport, ou si les choses sont détenues pour qu'il en soit disposé conformément à la loi, l'endroit où elles sont détenues, la personne qui les détient et les modalités de la détention.

***Item No. / N° de l'article Description Date Seized / Date de la saisie***

## ENF 12 Search, Seizure, Fingerprinting and Photographing

1. \_\_\_\_\_  
2. \_\_\_\_\_  
3. \_\_\_\_\_

### DISPOSITION/DÉCISION *Item No.(s) / N° de l'article ou des articles*

*Returned to person lawfully entitled to have possession.* \_\_\_\_\_  
*Remis à la personne ayant droit à la possession* \_\_\_\_\_

*May return to person lawfully entitled to have possession.* \_\_\_\_\_  
*Pourrait être remis à la personne ayant droit à la possession* \_\_\_\_\_

*A person has been charged, retain as an exhibit for court purposes.* \_\_\_\_\_  
*Une personne a été inculpée; garder comme pièce à conviction à des fins judiciaires* \_\_\_\_\_

*No charges have been laid, hold pending further investigation.* \_\_\_\_\_  
*Aucune accusation n'a été portée; conserver pendant que l'enquête se poursuit* \_\_\_\_\_

*Application for forfeiture* \_\_\_\_\_  
*Demande de confiscation* \_\_\_\_\_

### ACCUSED/PRÉVENU

*Name/Nom* \_\_\_\_\_ *Age/Âge* \_\_\_\_\_ *Charge/Inculpation* \_\_\_\_\_ *First Court Date/Première date de comparution en cour* \_\_\_\_\_

1. \_\_\_\_\_ — — —

*DATED* \_\_\_\_\_ *Day of* \_\_\_\_\_ *20* \_\_\_\_\_, *A.D.* \_\_\_\_\_  
*Fait le* \_\_\_\_\_ *jour du mois de* \_\_\_\_\_ *20* \_\_\_\_\_  
*at /à* *Calgary, Alberta.*

\_\_\_\_\_  
*CBSA Officer (Peace Officer)*  
*Agent de l'ASFC (Agent de la paix)*

## ENF 12 Search, Seizure, Fingerprinting and Photographing

### Order of Justice / Ordinance d'un juge de paix

**Date :** \_\_\_\_\_

**Location / Emplacement :** \_\_\_\_\_

**Pursuant to Section 490 of the Criminal Code of Canada, I hereby direct that the item(s) numbered on the face of this document and listed below be:**

**En vertu de l'article 490 du Code criminel du Canada, j'ordonne par les présentes que l'article ou les articles numérotés au recto de ce document et énumérés ci-dessous soient :**

**Item No. / N° de l'article ou des articles**

**(a) Returned to the person(s) lawfully entitled to have possession of them on production of satisfactory proof of ownership.**  
a) Remis à la ou aux personnes ayant droit à leur possession sur production d'une preuve satisfaisante de propriété.

**(b) Detained by the \_\_\_\_\_ for Court purposes.**  
b) Retenus par (name enforcement agency/nom de l'organisme d'application de la loi) à des fins judiciaires.

**(c) Held by the \_\_\_\_\_ pending further investigation.**  
c) Conservés par (name enforcement agency/nom de l'organisme d'application de la loi) pendant que l'enquête continue.

**(d) Forfeited to Her Majesty, to be disposed of as the Attorney General directs.**  
d) Confisqués par Sa Majesté, afin qu'il en soit disposé comme l'ordonne le procureur général.

**Justice of the Peace in and for the  
Province of Alberta  
Juge de paix dans et pour la province  
de l'Alberta**

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### SECTION 490(2) / ARTICLE 490(2)

**If seized articles are to be detained for more than three months and no proceedings are instituted in which the things detained may be required, an application must be made to a Justice for an Order for further detention, before the expiration of the period.**

**Si les articles saisis doivent être retenus durant une période excédant trois mois et que des procédures, au cours desquelles les choses retenues peuvent être requises, n'ont pas été intentées, une demande doit être adressée à un juge de paix pour qu'il ordonne la prolongation de la rétention, avant l'expiration de cette période.**

**ENDORSEMENT BY JUSTICE / VISA DU JUGE DE PAIX:**

**On the application of \_\_\_\_\_.**  
Sur la demande de \_\_\_\_\_.

**I order a further detention of the item(s) listed above (or attached) to \_\_\_\_\_.**  
J'ordonne la prolongation de la rétention de l'article ou des articles énumérés ci-dessus (ou joints à la présente)

## ENF 12 Search, Seizure, Fingerprinting and Photographing

( y/m/d a/m/j )

*or I order the following item(s) be returned as follows:*

*ou j'ordonne que le ou les articles suivants soient remis de la façon suivante :*

(i) List items and to whom they are to be returned. / Énumérer les articles et à qui ils doivent être remis.

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**DATED** \_\_\_\_\_ **Day of** \_\_\_\_\_, 20\_\_\_\_, A.D.  
**Fait le** \_\_\_\_\_ **jour du mois de** \_\_\_\_\_ 20\_\_\_\_\_  
**at /à** *Calgary, Alberta.*

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*Justice of the Peace in and for the  
Province of Alberta  
Juge de paix dans et pour la province  
de l'Alberta*

## ENF 12 Search, Seizure, Fingerprinting and Photographing

### Appendix F Sample of a Report to a Justice – Form 5.2

**CANADA**

**Province of Alberta**

**Province de l'Alberta**

**File No.**

**N° de référence**

**4604-12345678**

**Form 5.2      Formulaire 5.2**

**Criminal Code Code Criminel**

**Section 489.1 Article 489.1**

### **Report to a Justice Rapport à un juge de paix**

**I/ Je soussigné Bill JONES (Badge # 1234 / insigne n° 1234) a Peace Officer of THE CANADA BORDER SERVICES AGENCY  
un agent de la paix de L'AGENCE DES SERVICES FRONTALIERS DU CANADA,**

Have pursuant to / conformément à

*Section 487 of the Criminal Code (Search Warrant) or  
l'article 487 du Code criminel (mandat de perquisition) ou*

*Section 487.01 of the Criminal Code (General Warrant) or  
l'article 487.01 du Code criminel (mandat général) ou*

*Section 489 of the Criminal Code (Additional Items Seized via Search Warrant) or  
l'article 489 du Code criminel (autres articles saisis en vertu d'un mandat de perquisition) ou*

*Otherwise in the execution of duties (Common Law) or  
autrement, dans l'exercice de mes fonctions (common law) ou*

*Other Statute (specify / préciser)  
en vertu d'une autre loi fédérale*

**Searched the premises situated at: 3<sup>rd</sup> floor (Security Wing) , 123 – 1<sup>st</sup> Street SW, Calgary, AB  
ai perquisitionné les lieux suivants : 3<sup>e</sup> étage (Division de la sécurité), 123 – 1<sup>er</sup> Street SW, Calgary, AB**

**On May 6, 2002 and seized the following things and dealt with them as follows:  
Le 6 mai 2002 et ai saisi les choses suivantes et en ai disposé de la façon suivante :**

**Type of Occurrence/Genre d'événement : Warrant for Arrest under Section 55(1) of the Immigration and Refugee Protection Act – Enquiry on the coming and going of Mr. Smith  
Mandat d'arrestation aux termes du par. 55(1) de la LIPR – Enquête sur les allées et venues de M. Smith**

Describe each thing seized. State whether it was returned to the person lawfully entitled to its possession, in which case the receipt therefore shall be attached hereto, or it is being detained to be dealt with according to law and the location and manner in which or where applicable, the person by whom it is being detained.

Décrire chaque chose saisie. Indiquer si les choses ont été remises à la personne ayant droit à leur possession, auquel cas un reçu doit être joint au présent rapport, ou si les choses sont détenues pour

## ENF 12 Search, Seizure, Fingerprinting and Photographing

qu'il en soit disposé conformément à la loi, l'endroit où elles sont détenues, la personne qui les détient et les modalités de la détention.

### *Item No. / N° de l'article Description Date Seized / Date de la saisie*

1. Mr.Smith's application for cellular phone service May 6, 2002
2. Cellular Tower Info regarding (403) 555-1234 May 6, 2002
3. Map of Cellular Tower Locations regarding (403) 555-1234 May 6, 2002

1. La demande de M. Smith pour l'utilisation d'un téléphone cellulaire, 6 mai 2002
2. Information provenant de la station de base pour le n° (403) 555-1234, 6 mai 2002
3. Emplacement des stations de base pour le n° (403) 555-1234, 6 mai 2002

### **DISPOSITION/DÉCISION**      *Item No.(s) / N° de l'article ou des articles*

*Returned to person lawfully entitled to have possession. 1, 2 and 3 (copies kept on file)*  
*Remis à la personne ayant droit à la possession. 1, 2 et 3 (copies conservées au dossier)*

*May return to person lawfully entitled to have possession.* \_\_\_\_\_  
*Pourrait être remis à la personne ayant droit à la possession*

*A person has been charged, retain as an exhibit for court purposes.* \_\_\_\_\_  
*Une personne a été inculpée; garder comme pièce à l'appui pour fins judiciaires*

*No charges have been laid, hold pending further investigation.* \_\_\_\_\_  
*Aucune accusation n'a été portée; conserver pendant que l'enquête se poursuit*

*Application for forfeiture* \_\_\_\_\_  
*Demande de confiscation*

### **ACCUSED/PRÉVENU**

<i>Name/Nom</i>	<i>Age/Âge</i>	<i>Charge/Inculpation</i>	<i>First Court Date/Première date de comparution en cour</i>
1. Mr, John Smith	<u>30</u>	<u>Nil</u>	<u>Nil</u>

*DATED 7th Day of May 2002, A.D.*

*Fait le 7e jour du mois de mai 2002*

*at /à Calgary, Alberta.*

*CBSA Officer (Peace Officer)*  
*Agent de l'ASFC (Agent de la paix)*

# ENF 12 Search, Seizure, Fingerprinting and Photographing

## Order of Justice / Ordinance d'un juge de paix

**Date :** \_\_\_\_\_

**Location / Emplacement :** \_\_\_\_\_

*Pursuant to Section 490 of the Criminal Code of Canada, I hereby direct that the item(s) numbered on the face of this document and listed below be:*

*En vertu de l'article 490 du Code criminel du Canada, j'ordonne par les présentes que l'article ou les articles numérotés au recto de ce document et énumérés ci-dessous soient :*

### **Item No. / N° de l'article ou des articles**

*(a) Returned to the person(s) lawfully entitled to have possession of them on production of satisfactory proof of ownership.*  
*a) Remis à la ou aux personnes ayant droit à leur possession sur production d'une preuve satisfaisante de propriété.*

*(b) Detained by the \_\_\_\_\_ for Court purposes.*  
*b) Retenus par (name enforcement agency/nom de l'organisme d'application de la loi) à des fins judiciaires.*

*(c) Held by the \_\_\_\_\_ pending further investigation.*  
*c) Conservés par (name enforcement agency/nom de l'organisme d'application de la loi) pendant que l'enquête continue.*

*(d) Forfeited to Her Majesty, to be disposed of as the Attorney General directs.*  
*d) Confisqués par Sa Majesté, afin qu'il en soit disposé comme l'ordonne le procureur général.*

---

*Justice of the Peace in and for the  
Province of Alberta  
Juge de paix dans et pour la province  
de l'Alberta*

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### **SECTION 490(2) / ARTICLE 490(2)**

*If seized articles are to be detained for more than three months and no proceedings are instituted in which the things detained may be required, an application must be made to a Justice for an Order for further detention, before the expiration of the period.*

*Si les articles saisis doivent être retenus durant une période excédant trois mois et que des procédures, au cours desquelles les choses retenues peuvent être requises, n'ont pas été intentées, une demande doit être adressée à un juge de paix pour qu'il ordonne la prolongation de la rétention, avant l'expiration de cette période.*

### **ENDORSEMENT BY JUSTICE / VISA DU JUGE DE PAIX:**

*On the application of \_\_\_\_\_.*  
*Sur la demande de \_\_\_\_\_.*

*I order a further detention of the item(s) listed above (or attached) to \_\_\_\_\_.*  
*J'ordonne la prolongation de la rétention de l'article ou des articles énumérés ci-dessus (ou joints à la présente)*

## ENF 12 Search, Seizure, Fingerprinting and Photographing

( y/m/d a/m/j )

*or I order the following item(s) be returned as follows:*

*ou j'ordonne que le ou les articles suivants soient remis de la façon suivante :*

(1) List items and to whom they are to be returned. / Énumérer les articles et à qui ils doivent être remis.

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**DATED** \_\_\_\_\_ **Day of** \_\_\_\_\_, 20\_\_\_\_, A.D.  
**Fait le** \_\_\_\_\_ **jour du mois de** \_\_\_\_\_ 20\_\_\_\_\_  
**at /à** *Calgary, Alberta.*

---

*Justice of the Peace in and for the  
Province of Alberta  
Juge de paix dans et pour la province  
de l'Alberta*

## ENF 12 Search, Seizure, Fingerprinting and Photographing

### Appendix G (R254(2)) Sample memorandum to DG - Return of a vehicle on payment of security

Departmental memorandum / Note de service interne

**To / À :** \*\*\*\*\*  
Director General  
----- Region

**From / De :** Officer  
Position  
Office

**SUBJECT / TITRE :** Return of a Seized Vehicle on Deposit of Security Under R254(2)

**FOR DECISION/POUR DÉCISION:** as soon as possible

A car owned by Mr. Robert Owner was seized from Simon Borrower at the port of Somewhere, Sask. on June 29, 2002. It is recommended that you return it if the owner provides security in the amount of \$10,000.00.

#### **Issue:**

The purpose of this memorandum is to ask you to decide, pursuant to subsection 254(2) of the *Immigration and Refugee Protection Regulations*, that Mr. Owner provide the sum of \$10,000.00 as security for the return of his car pending a decision on its disposal.

This is necessary because Mr. Owner wants his car back without delay and has indicated that he will make an application under R255 for the return of the vehicle. He said that he is willing to provide security for the full market value of the vehicle pending final disposition of the vehicle.

#### **Background:**

The car was seized pursuant to section 140 of the *Immigration and Refugee Protection Act* by an officer who had reasonable grounds to believe that it was improperly used. The evidence shows that the driver, Mr. Simon Borrower, used the car in connection with an offence under subsection 117(1) of the Act by aiding the coming into Canada of a person who was not in possession of a valid passport and visa as required. Please see the attached Case summary.

#### **Considerations:**

On July 2, Mr. Owner contacted me regarding the return of his car. I explained that you would consider his application to get his car now if he is willing to deposit a sum equal to the value of the car. He then decided to make an application under R254 so that his car could be returned without delay. He intends to make another application under R255(1) within the 60-day period and provide appropriate evidence for your consideration.

Mr. Owner alleges that he was away when Mr. Borrower used his car and that he learned about the seizure when he returned home three days later. He claims that he had not authorized Mr. Borrower to use his car, that he is innocent and that he should get his car back without penalty. He also alleges that Mr. Borrower took a spare set of keys without his knowledge. However, he includes no evidence to support his claims.

We have reasons to doubt Mr. Owner's statements. When the car was seized, Mr. Borrower informed the officer that Mr. Owner could not be contacted because he was away from home. He added that, two days before, Mr. Owner had asked him if he would go to the USA to pick up his friend, Mr. Passenger, who would arrive during his absence. He claimed that Mr. Owner gave him a set of his car keys as well as a copy of the registration and insurance forms. As well, Mr. Owner provided the identity documents that were used by Mr. Passenger.

## **ENF 12 Search, Seizure, Fingerprinting and Photographing**

Mr. Owner appears to meet the criteria set out in R254(2) because:

- it is not necessary that we keep this car because it will not be used as evidence with respect to the seizure or the offence; and
- Mr. Owner is well established and there are no risks that he will not pay a debt.

Since ownership of the car is not in dispute and Mr. Borrower said that he would not apply for its return, I recommend that you offer to return it if Mr. Owner deposits cash security equal to the value of the car, that is \$10,000.00.

The case will be sent back for a final decision after we receive Mr. Owner's application under R255 and the evidence that he plans to submit.

The value of the vehicle was established in consultation with Buick Sales Inc.

### **Recommendation:**

If you agree with this proposed action, please sign the attached decision. Mr. Owner will be informed accordingly.

Officer

Attachments: - Case summary

Decision to return a car

I concur

\_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 2002

Director General

## ENF 12 Search, Seizure, Fingerprinting and Photography

### R254(2) - Sample of a summary/report for a vehicle that was borrowed.

#### Case summary

July 15, 2002

#### Automobile Seizure - A140 Simon Borrower / Robert Owner

**Date of seizure:** June 29, 2002

**Place of seizure:** Somewhere, Sask

**Vehicle data:** - 1998 Buick

**VIN #** 9898GM98AUTO989898

**Licence** - Sask ABC-123

**Estimated Value:** **\$10,000.00** [Red Book and consultation with the local Buick Sales Inc.]

**Owner:** Robert Owner,  
1478 Avenue F, Cee City, Sask.

#### The persons involved:

- **Simon Borrower.** He was the driver of the vehicle at the time it was seized. He is a Canadian citizen.
- **Andrew Passenger.** He is a citizen of Chile. Arrived without passport or visa. He presented himself as a Canadian citizen and, as evidence, produced documents that belonged to someone else. He claimed refugee status.
- **Alma Borrower.** She is Simon's wife. She is a permanent resident and was a passenger in the car when it was seized.

#### Circumstances relating to the seizure:

The three persons reported for examination at the port of Somewhere. The Borrowers properly identified themselves while Mr. Passenger claimed to be a Canadian citizen. They were referred for an immigration secondary examination. During the examination, Mr. Passenger admitted that he is a citizen of Chile and that he pretended to be a Canadian citizen when he presented documents of identity that were not his.

Mr. Borrower explained that he had agreed to help Mr. Passenger because he is Mr. Owner's friend. Mr. Borrower said that Mr. Owner supplied the identity documents that were to be used by Mr. Passenger. Mr. Passenger intended to remain permanently in Canada but had failed to qualify for a visa. Mr. Passenger's Chilean passport is with his sister in the USA. She was going to bring it to him during her next visit to Canada. During his examination, he claimed refugee protection.

## **ENF 12 Search, Seizure, Fingerprinting and Photography**

### **R254(2) – Sample decision to return a car on deposit of security**

#### **Decision in respect to a vehicle that was seized**

#### **Section 140 of the *Immigration and Refugee Protection Act***

Pursuant to subsection 254(2) of the *Immigration and Refugee Protection Regulations*, I have decided that the 1998 Buick, VIN # 9898GM98AUTO989898 and Saskatchewan licence – ABC-123 that was seized at Somewhere, Saskatchewan on June 29, 2002, should be returned to its owner, Mr. Robert Owner, if he provides cash security in the amount of \$10,000.00.

I am satisfied that the following conditions have been met;

- Mr. Owner is the lawful owner of this car;
- the fair market value of this car is \$10,000.00;
- the seizure is no longer necessary to prevent the improper use of the car or to carry out the purposes of the Act; and
- there is no significant risk in being able to recover a debt from Mr. Owner.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2002

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\_\_\_\_\_  
Director General

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\_\_\_\_\_  
Region

## ENF 12 Search, Seizure, Fingerprinting and Photography

### R254(2)(b) – Sample letter - Request of security for seized car

Mr. Robert Owner  
1478 Avenue F  
Cee City, Saskatchewan  
X5A 2X8

Dear Mr. Owner:

Re: Seizure of: 1998 Buick  
VIN: 9898GM98AUTO989898  
Licence: Saskatchewan - ABC-123

Your letter of July 2, 2002 refers.

Further to subsection 254(2) of the *Immigration and Refugee Protection Regulations*, I am writing to notify you that the Director General, \_\_\_\_\_ Region, decided that this vehicle may be returned to you on deposit of \$10,000.00 in cash as security pending a final decision regarding the disposition of your vehicle.

The car was seized pursuant to section 140 of the *Immigration and Refugee Protection Act* by an officer who had reasonable grounds to believe that the seizure was necessary because the car was improperly used. The evidence shows that the driver, Mr. Borrower, used the car in connection with an offence under subsection 117(1) of the Act by aiding the coming into Canada of a person who was not in possession of valid passport and visa as required.

Section 117(1) of the Act provides that

“No person shall knowingly organize, induce, aid or abet the coming into Canada of one or more persons who are not in possession of a visa, passport or other document required by this Act.”

In this case, the officer had reasonable grounds to believe that Mr. Simon Borrower drove your car to the United States in order to pick up a person who did not have a passport or visa as required and drove him to Canada. At the port of entry, the passenger attempted to come into Canada by falsely claiming to be a Canadian citizen. As evidence, he produced documents of identity that were not his.

A copy of the Director General’s decision and reasons is attached for your information. Please be advised that this decision on your application pursuant to R254 does not prevent you from applying for the return of the vehicle under R255. If the final decision is to return the vehicle, then this deposit will be returned. Otherwise, the \$10,000.00 deposit will be forfeited.

Your vehicle, or your deposit, may be returned under R255(2) if you demonstrate:

- that you did not participate in its improper use, and
- exercised all reasonable care to satisfy yourself that the person permitted to obtain possession of your car was not likely to improperly use the car, or

under R255(3), on payment of \$5,000.00 if you:

- did not profit or intend to profit from the improper use of the car, and
- are unlikely to contravene the Act in the future.

## **ENF 12 Search, Seizure, Fingerprinting and Photographing**

Pursuant to R256, a vehicle may also be returned to the person from whom it was seized who demonstrates that the vehicle was not improperly obtained or used.

Please contact this port of entry if you decide to retrieve your vehicle on payment of \$10,000.00.

Sincerely,

---

Officer

## ENF 12 Search, Seizure, Fingerprinting and Photographing

### Appendix H (R255(2)) Sample memorandum to DG - Application to return a rented car that was seized

Departmental Memorandum / Note de service interne

**To / À :** \*\*\*\*\*

Director General  
Region

**From / De :** Officer

Position  
Office

**SUBJECT / TITRE :** Return of a Rented Car – R 255(2)

**FOR DECISION/POUR DÉCISION:** as soon as possible

A car owned by RENT-A-CAR Inc. was seized at the port of Somewhere, Sask. on June 29, 2002. It is recommended that you decide to return this car to RENT-A-CAR Inc.

#### **Issue:**

The purpose of this memorandum is to ask you to find, pursuant to subsection 255(2) of the *Immigration and Refugee Protection Regulations* that RENT-A-CAR Inc.

- was the lawful owner of the vehicle prior to its seizure and has remained the lawful owner;
- did not participate in the fraudulent or improper use of the car;
- exercised all reasonable care to satisfy themselves that the person permitted to obtain possession of the car was not likely to fraudulently or improperly use it

and to decide that the car should be returned to RENT-A-CAR Inc.

#### **Background:**

The car was seized pursuant to section 140 of the *Immigration and Refugee Protection Act* by an officer who had reasonable grounds to believe that it was improperly used.

The evidence shows that the driver, Mr. Simon Renter, used the car in connection with an offence under subsection 117(1) of the Act by aiding the coming into Canada of a person who was not in possession of a valid passport and visa as required. Please see attached Case summary.

#### **Considerations:**

Pursuant to subsection 255(1) of the Regulations, the lawful owner of a vehicle who was not in his possession at the time it was seized may, within 60 days, apply for its return.

RENT-A-CAR Inc. initiated this process by letter dated July 5, 2002 and, in support of their application, they attached a copy of the car registration form showing that it has been registered in their name. They also include a copy of the rental agreement signed by Mr. Renter. We are also assured that they were not aware of Mr. Renter's intention; had they been, they would not have rented the car to him. We have no reason to doubt their statements.

I have reviewed the evidence and believe that RENT-A-CAR Inc. meets the conditions imposed under Regulation 255(2) and that they are entitled to recover their car.

RENT-A-CAR Inc. will be informed of your decision and reasons as required under R255(5).

**ENF 12 Search, Seizure, Fingerprinting and Photographing**

**Recommendation:**

If you agree with this proposed action, please sign the attached letter and the DECISION document.

Officer

Attachments: - Case summary.

DECISION document.

I concur

\_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 2002

Director General

\_\_\_\_\_

Region

## ENF 12 Search, Seizure, Fingerprinting and Photography

### R255(2) - Sample of a summary/report for a rented car

#### Case summary

July 15, 2002

#### Automobile Seizure - A140 Simon Renter

**Date of seizure:** June 29, 2002

**Place of seizure:** Somewhere, Sask

**Vehicle data:** - 2002 Buick

**VIN #** 9898GM98AUTO989898

**Licence** - Sask - ABC-123

**Estimated Value:** \$31,000.00 [Red Book]

**Owner:** RENT-A-CAR, Inc.,

Cee City, Sask.

The persons involved:

- **Simon Renter.** He was the driver of the vehicle at the time it was seized. He is a Canadian citizen.
- **Andrew Passenger.** He is a citizen of Chile. Arrived without passport or visa. He presented himself as a Canadian citizen and, as evidence, produced documents that belonged to someone else. He claimed refugee status.
- **Alma Renter.** She is Simon's wife. She is a permanent resident and was a passenger in the car when it was seized.

#### Circumstances relating to the seizure:

The three persons reported for examination at the port of Somewhere. The Renters properly identified themselves while Mr. Passenger claimed to be a Canadian citizen. They were referred for an immigration secondary examination. During the examination, Mr. Passenger admitted that he is a citizen of Chile and that he pretended to be a Canadian citizen when he presented documents of identity that were not his.

Mr. Renter explained that he had agreed to help Mr. Passenger because he is a friend of his wife's family. Mr. Renter said that the identity documents belonged to his brother-in-law and were used without the owner's knowledge. Mr. Passenger intended to remain permanently in Canada but had failed to qualify for a permanent resident visa. He said that he left his Chilean passport with his sister in the USA. She was going to bring it to him during her next visit to Canada. During his examination, he claimed refugee status.

## **ENF 12 Search, Seizure, Fingerprinting and Photographing**

### **R255(2) – Sample of decision to return a rented car**

#### **Decision in respect to a vehicle that was seized**

#### **Section 140 of the Immigration and Refugee Protection Act**

I am satisfied that RENT-A-CAR Inc. meets the conditions of subsection 255(2) of the *Immigration and Refugee Protection Regulations* in that they have demonstrated that they:

- were the lawful owner of the vehicle prior to its seizure and have remained the lawful owner;
- did not participate in the fraudulent or improper use of the car; and
- exercised all reasonable care to satisfy themselves that the person permitted to obtain possession of the car was not likely to fraudulently or improperly use it.

I have decided that the 2002 Buick, VIN # 9898GM98AUTO989898 and Saskatchewan licence – ABC-123 that was seized at Somewhere, Saskatchewan on June 29, 2002, should be returned to its owner, RENT-A-CAR Inc.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2002

---

Director General

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Region

## ENF 12 Search, Seizure, Fingerprinting and Photographing

### R255(5) - Sample – Notice of Decision and Reasons - Return of a rented car

Mr. Steve Jones

RENT-A-CAR Inc.

Cee City, Saskatchewan

X5A 2X8

Dear Mr. Jones:

Re: Seizure of: 2002 Buick

VIN: 9898GM98AUTO989898

Licence: Saskatchewan - ABC-123

Your letter of July 5, 2002 refers.

As required by subsection 255(5) of the *Immigration and Refugee Protection Regulations*, I am writing to notify you that the Director General, \_\_\_\_\_ Region, has decided that this vehicle should be returned to RENT-A-CAR Inc.

The car was seized pursuant to section 140 of the *Immigration and Refugee Protection Act* by an officer who had reasonable grounds to believe that the seizure was necessary because the car was improperly used. The evidence shows that the driver, Mr. Simon Renter, used the car in connection with an offence under subsection 117(1) of the Act by aiding the coming into Canada of a person who was not in possession of a valid passport and visa as required.

Section 117(1) of the Act provides that

“No person shall knowingly organize, induce, aid or abet the coming into Canada of one or more persons who are not in possession of a visa, passport or other document required by this Act.”

In this case, the officer had reasonable grounds to believe that Mr. Renter drove your car to the United States in order to pick up a person who did not have a passport or visa as required and drove him to Canada. At the port of entry, the passenger was presented as a Canadian citizen in order to mislead the examining officer and be allowed to come into Canada. Improperly obtained documents were presented in support of this claim to Canadian citizenship.

In view of the evidence that you presented and under the terms of subparagraph 255(2) of the Regulations, the Director General decided that the car should be returned to RENT-A-CAR Inc. A copy of his decision is attached for your information.

Please contact the port of entry of Somewhere, Saskatchewan in order to arrange for the return of this car.

Sincerely

---

Officer

Enclosure: copy of the Decision.

## ENF 12 Search, Seizure, Fingerprinting and Photographing

### Appendix I (R255(3)) Sample memorandum to DG for decision on Application for return of vehicle

Departmental Memorandum / Note de service interne

**To / À :** \*\*\*\*\*  
Director General  
----- Region

**From / De :** Officer  
Position  
Office

**SUBJECT / TITRE :** Application under R255 for return of a seized vehicle

**FOR DECISION/POUR DÉCISION:** as soon as possible

A car owned by Mr. Owner was seized at the port of Somewhere, Sask. on June 29, 2002. It is recommended that you decide to return this car to Mr. Owner on payment of \$5,000.00.

#### **Issue:**

The purpose of this memorandum is to ask you to find, pursuant to subsection 255(3) of the *Immigration and Refugee Protection Regulations*, that Mr. Owner demonstrated that he

- was the lawful owner of the vehicle prior to its seizure and has remained the lawful owner;
- did not profit or intend to profit from its use;
- is unlikely to contravene the Act again; and

to decide that the car should be returned to Mr. Owner on payment of \$5,000.00.

#### **Background:**

The car was seized pursuant to section 140 of the *Immigration and Refugee Protection Act* by an officer who had reasonable grounds to believe that it was improperly used. The evidence shows that the driver, Mr. Simon Borrower, used the car in connection with an offence under subsection 117(1) of the Act by aiding the coming into Canada of a person who was not in possession of a valid passport and visa as required. Please see the attached case summary.

#### **Considerations:**

Pursuant to subsection 255(1) of the Regulations, the lawful owner of a vehicle who was not in possession of it at the time it was seized may, within 60 days, apply for its return.

Mr. Owner initiated this process by letter dated July 5, 2002 and, in support of his application, he produced a copy of the car registration form showing that it has been registered in his name since May 1998. He states that when his friend borrowed the car for the day he said the he was going to visit a sick relative in Bee City and that from there, he would go to the USA to help a friend come into Canada. He acknowledges that he refrained from questioning Mr. Borrower because he did no want to know what was going on. He assures us that this will not happen again because he will no longer lend his car to persons outside his immediate family. All parties agreed that Mr. Owner was not paid for the loan of his car.

## **ENF 12 Search, Seizure, Fingerprinting and Photographing**

I have reviewed the evidence and it appears that Mr. Owner does not meet the conditions of R255(2) for the return of his car because he failed to ensure that his car would not be used improperly. However, he meets the conditions imposed under Regulation 255(3) and is entitled to recover his car on payment of \$5,000.00.

### **Recommendation:**

If you agree with this proposed action, please sign the attached DECISION. Mr. Owner will then be informed of your decision and the reasons, as required under R255(5).

Officer

Attachments: - Case summary.

DECISION document.

I concur

\_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 2002

Director General

## ENF 12 Search, Seizure, Fingerprinting and Photographing

### R255(3) - Sample of a summary/report for a vehicle that was borrowed

#### Case summary

July 15, 2002

#### Automobile Seizure - A140 Robert Owner

**Date of seizure:** June 29, 2002

**Place of seizure:** Somewhere, Sask

**Vehicle data:** - 1998 Buick

**VIN #** 9898GM98AUTO989898

**Licence -** Sask ABC-123

**Estimated Value:** \$10,000.00 [Red Book]

**Owner:** Robert Owner,  
1478 Avenue F, Cee City, Sask.

The persons involved:

- **Simon Borrower.** He was the driver of the vehicle at the time it was seized. He is a Canadian citizen.
- **Andrew Passenger.** He is a citizen of Chile. He arrived without a passport or visa. He presented himself as a Canadian citizen and, as evidence, produced documents that belonged to someone else. He claimed refugee status.
- **Alma Borrower.** She is Simon's wife. She is a permanent resident and was a passenger in the car when it was seized.

#### Circumstances relating to the seizure:

The three persons reported for examination at the port of Somewhere. The Borrowers properly identified themselves while Mr. Passenger claimed to be a Canadian citizen. They were referred for an immigration secondary examination. During the examination, Mr. Passenger admitted that he is a citizen of Chile and that he pretended to be a Canadian citizen when he presented documents of identity that were not his.

Mr. Borrower explained that he had agreed to help Mr. Passenger because he is a friend of his wife's family. Mr. Borrower said that the identity documents belonged to his brother-in-law and were used without the owner's knowledge. Mr. Passenger intended to remain permanently in Canada but had failed to qualify for a visa. He said that he left his Chilean passport with his sister in the USA. She was going to bring it to him during her next visit to Canada. During his examination, he claimed refugee status.

The following documents belonging to Jimmy James were seized at the same time as the car and were returned to the owner:

- Medical card for the province of Saskatchewan;
- SIN card;
- Royal Bank Visa card – 1234 5678 9123 and a statement of the account for the period ending June 15, 2002.

## **ENF 12 Search, Seizure, Fingerprinting and Photography**

### **R255(3) – Sample of decision to return a borrowed car to owner**

#### **Decision in respect to a vehicle that was seized**

##### **Section 140 of the *Immigration and Refugee Protection Act***

I am satisfied that Mr. Owner meets the conditions of subsection 255(3) of the *Immigration and Refugee Protection Regulations* in that he has demonstrated that he:

- was the lawful owner of the vehicle prior to its seizure and has remained the lawful owner;
- did not profit or intend to profit from its use; and,
- is unlikely to contravene the Act in the future.

I have decided that the 1998 Buick, VIN #9898GM98AUTO989898 and Saskatchewan licence – ABC-123 that was seized at Somewhere, Saskatchewan on June 29, 2002, should be returned to its owner, Mr. Robert Owner on payment of a sum of \$5,000.00.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2002

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\_\_\_\_\_  
Director General

---

\_\_\_\_\_  
Region

## ENF 12 Search, Seizure, Fingerprinting and Photographing

### R255(5) – Sample notice and reasons for decision to return a vehicle to its owner

Mr. Robert Owner  
1478 Avenue F  
Cee City, Saskatchewan  
X5A 2X8

Dear Mr. Owner:

Re: Seizure of: 1998 Buick  
VIN: 9898GM98AUTO989898  
Licence: Saskatchewan - ABC-123

Your letter of July 5, 2002 refers.

As required by subsection 255(5) of the *Immigration and Refugee Protection Regulations*, I am writing to notify you that the Director General, \_\_\_\_\_ Region, decided that this vehicle may be returned to you on payment of a sum of \$5,000.00 as prescribed.

The car was seized pursuant to section 140 of the *Immigration and Refugee Protection Act* by an officer who had reasonable grounds to believe that the seizure was necessary because the car was improperly used. The evidence shows that the driver, Mr. Borrower, used the car in connection with an offence under subsection 117(1) of the Act by aiding the coming into Canada of a person who was not in possession of a valid passport and visa as required.

Section 117(1) of the Act provides that

“No person shall knowingly organize, induce, aid or abet the coming into Canada of one or more persons who are not in possession of a visa, passport or other document required by this Act.”

In this case, the officer had reasonable grounds to believe that Mr. Simon Borrower drove your car to the United States in order to pick up a person who did not have a passport or visa as required and drove him to Canada. At the port of entry, the passenger was presented as a Canadian citizen in order to mislead the examining officer and be allowed to come into Canada. Improperly obtained documents were presented in support of this claim to Canadian citizenship.

In your letter, you state that, when he borrowed your car, Mr. Borrower told you that he would drive to the USA to help a friend come to Canada. Knowing this, you decided not to question him because you did not want to know what was going on. As a result, you did not exercise all reasonable care to satisfy yourself that Mr. Borrower was not likely to improperly use your car.

In view of the above, under the terms of subsection 255(3) of the Regulations, the Director General decided that the car may be returned to you against payment of the sum of \$5,000.00. A copy of the decision is attached for your information.

Please contact this office to arrange for the return of your car.

Sincerely

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Officer

Enclosure: copy of the Decision.

## ENF 12 Search, Seizure, Fingerprinting and Photographing

### Appendix J (R256(2)) Sample memorandum to DG for decision on application for return of vehicle

Departmental Memorandum / Note de service interne

**To / À :** \*\*\*\*\*

Director General  
----- Region

**From / De :** Officer

Position  
Office

**SUBJECT / TITRE :** Application under R256 for the return of a seized vehicle

**FOR DECISION/POUR DÉCISION:** as soon as possible

A car owned by Mr. Robert Owner was seized from Simon Borrower at the port of Somewhere, Saskatchewan on June 29, 2002. It is recommended that you decide that it cannot be returned to Mr. Borrower.

#### **Issue:**

The purpose of this memorandum is to ask you to decide, pursuant to subsection 256(2) of the *Immigration and Refugee Protection Regulations*, that a car owned by Mr. Owner was improperly obtained and used and that it cannot be returned to Mr. Borrower, the person from whom it was seized.

#### **Background:**

The car was seized pursuant to section 140 of the *Immigration and Refugee Protection Act* by an officer who had reasonable grounds to believe that it was improperly obtained and used. The evidence shows that the driver, Mr. Simon Borrower, took Mr. Owner's car and used it in connection with an offence under subsection 117(1) of the Act by aiding the coming into Canada of a person who was not in possession of valid visa as required and could not support his claim to permanent residence in Canada. Please see the attached case summary.

#### **Considerations:**

Pursuant to subsection 256(1) of the Regulations, the person from whom a car is seized may, within 30 days, apply for its return. Mr. Borrower initiated this process by letter dated July 2, 2002.

At the time of the seizure, Mr. Borrower could produce no evidence that he had permission from Mr. Owner, his neighbor, to use the car. We tried to contact Mr. Owner but his employer told us that he is on vacation and would not return for another three weeks. The employer told us that Mr. Owner should call the office in about 10 days and he assured us that he would ask Mr. Owner to contact us without delay. Mr. Owner has until August 27<sup>th</sup> to file an application for the return of his car under R255. He is expected to return home before then.

While Mr. Passenger claimed to be a permanent resident of Canada, he was in possession of a Chilean passport only and had no visa for Canada. He did not have a permanent resident card or other supporting document and he was unable to answer many key questions that were put to him for verification.

Mr. Borrower delivered his application to this office on July 2<sup>nd</sup> accompanied by Mr. Passenger. In support of his application, Mr. Borrower produced a sworn statement from Mr. Owner in which he says that Mr. Borrower used his car with permission in order to go to the USA to assist a Canadian friend who was stranded there. We have reasons to doubt this statement because Mr. Owner is not supposed to be in Canada but the statement shows that it was signed and dated in

## **ENF 12 Search, Seizure, Fingerprinting and Photographing**

Toronto. As for Mr. Passenger, he produced a photocopy of an IMM1000 that was made locally. It was not acceptable as evidence of his permanent resident status.

I have reviewed the evidence produced by Mr. Borrower and Mr. Passenger and I am not satisfied that it shows that the car was not improperly obtained and used. Mr. Borrower's application for the return of the car should be refused.

### **Recommendation:**

If you agree with this proposed action, please sign the attached DECISION. Mr. Borrower will then be informed of your decision and the reasons, as required under R256(3).

Officer

Attachments: - Case summary.

DECISION document.

I concur

\_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 2002

Director General

# ENF 12 Search, Seizure, Fingerprinting and Photography

## R256(2) - Sample of a summary/report for a vehicle that was borrowed

### Case summary

July 15, 2002

### Automobile Seizure - A140 Simon Borrower / Robert Owner

**Date of seizure:** June 29, 2002

**Place of seizure:** Somewhere, Sask

**Vehicle data:** - 1998 Buick

**VIN #** 9898GM98AUTO989898

**Licence -** Sask ABC-123

**Estimated Value:** **\$10,000.00 [Red Book and consultation with the local Buick Sales Inc.]**

**Owner:** Robert Owner,  
1478 Avenue F, Cee City, Sask.

#### The persons involved:

- **Simon Borrower.** He was the driver of the vehicle at the time it was seized. He is a Canadian citizen.
- **Andrew Passenger.** He claimed to be a permanent resident of Canada but did not have a permanent resident card. He presented a Chilean passport that had no visa for Canada and no evidence of a previous entry into Canada for permanent residence.
- **Alma Borrower.** She is Simon's wife. She is a permanent resident and was a passenger in the car when it was seized.

#### Circumstances relating to the seizure:

The three persons reported for examination at the port of Somewhere. The Borrowers properly identified themselves while Mr. Passenger claimed to be a resident of Canada. They were referred for an immigration secondary examination. During the examination, Mr. Passenger produced a Chilean passport but could not satisfy the officer that he is a permanent resident of Canada.

At the interrogation, Mr. Borrower reported that the car belonged to a neighbor, Mr. Owner, and that he was using it with his permission. However, he did not have the car registration documents or any other thing to support his claim. We tried to contact Mr. Owner at his place of work and we were told that he was out of the country for three more weeks. As a result, the officer was not satisfied that the car used by Mr. Borrower was properly obtained and used.

## ENF 12 Search, Seizure, Fingerprinting and Photographing

### R254(2) – Sample decision to return a borrowed car

#### Decision in respect to a vehicle that was seized

##### Section 140 of the *Immigration and Refugee Protection Act*

Pursuant to subsection 256(2) of the *Immigration and Refugee Protection Regulations* I have decided that the 1998 Buick, VIN #9898GM98AUTO989898 and Saskatchewan licence – ABC-123 that was seized at Somewhere, Saskatchewan on June 29, 2002, should not be returned to Mr. Simon Borrower, the person from whom it was seized.

I am not satisfied that Mr. Borrower demonstrated that:

- the car was not improperly obtained
- the car was not improperly used.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2002

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\_\_\_\_\_  
Director General,

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\_\_\_\_\_  
Region

## ENF 12 Search, Seizure, Fingerprinting and Photography

### R256(2) – Sample letter – Return of a borrowed car

Mr. Simon Borrower

1482 Avenue F

Cee City, Saskatchewan

X5A 2X8

Dear Mr. Borrower:

Re: Seizure of: 1998 Buick

VIN: 9898GM98AUTO989898

Licence: Saskatchewan - ABC-123

Your letter of July 2, 2002 refers.

Further to subsection 256(2) of the *Immigration and Refugee Protection Regulations*, I am writing to notify you that the Director General, \_\_\_\_\_ Region, decided that this vehicle cannot be returned to you.

The car was seized pursuant to section 140 of the *Immigration and Refugee Protection Act* by an officer who had reasonable grounds to believe that the seizure was necessary because the car was improperly obtained and used. The evidence that was available to the officer shows that you used a car that was not yours in connection with an offence under subsection 117(1) of the Act by aiding the coming into Canada of a person who was not in possession of a valid passport and visa as required.

Section 117(1) of the Act provides that

“No person shall knowingly organize, induce, aid or abet the coming into Canada of one or more persons who are not in possession of a visa, passport or other document required by this Act.”

In this case, the officer had reasonable grounds to believe that you were using Mr. Owner’s car without his permission while he was out of the country. Further, you were bringing to Canada a person who claimed to be a permanent resident of Canada but could not prove this to the satisfaction of the officer. In addition, your passenger was in possession of a Chilean passport and was not in possession of a Canadian visa as required.

In light of the evidence that you produced at the time you applied for the return of the car, the Director General was not satisfied that the car had not been improperly obtained and used. He decided that the car cannot be returned to you. A copy of the decision and of its reasons is attached for your information.

This decision will not prevent Mr. Owner from applying for the return of his car.

Sincerely,

---

Officer

Enclosure: Copy of the Decision.

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## General Biometrics Information

1. Led by Immigration, Refugee and Citizenship Canada (IRCC), in partnership with the Canada Border Services Agency (CBSA) and the Royal Canadian Mounted Police (RCMP), the collection of biometrics enhances Canada's security and assists in deterring identity theft by:

- Collecting biometrics (biographic information, digital photograph and fingerprints) from all foreign nationals (FN) (excluding U.S. nationals) applying for a temporary resident (TR) visa, work permit, study permit, or temporary resident permit; and all permanent residence (PR) applicants.
- Screening biometrics against the RCMP's criminal and immigration fingerprint repositories for previous criminality / immigration enforcement and biometric-based information sharing for immigration purposes with Migration 5 partners.
- Authenticating biometrically enrolled travellers through a photo comparison and/or fingerprint verification upon arrival at Canadian Ports of Entry (POEs).
- Identifying biometrically enrolled temporary and permanent residents who have been charged by the police with criminal offences within Canada.

## Authority

2. The authorities for biometric enrolment and verification come from the *Immigration and Refugee Protection Act* (IRPA) and Immigration and Refugee Protection Regulations (IRPR).

For Information About	IRPA Section or IRPR Reference
Authority for mandatory biometric collection at application	A10.01 R12.3
Type of biometric information required	R12.3(b)
Exemptions from biometric collection	R12.2(1), R12.7 (1) and R12.8
Biometric fee and fee exemptions	R315.1 (1) and (2)
Authority to verify biometrics at the POE	A10.01 R12.5
Obligation – Relevant Evidence	A16(2)
Obligation – Evidence Relating to Identify	A16(3)

3. While the authority to collect biometrics in most circumstances will be limited to the Border Service Officers (BSOs) at POEs, there will be circumstances when CBSA Inland Enforcement Officers will collect biometrics.

## Who needs to have their biometric information enrolled?

4. As per IRPR R12.1 (1), unless exempted, biometric collection is mandatory from FNs who are:

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- Applying for a Permanent Resident visa
- To remain in Canada as a permanent resident;
- Applying for permanent resident status, applicable to a person who, when they made their claim for refugee protection outside Canada, was exempted, under section 12.8, from providing their biometric information under section 10.01 of the Act;
- Applying for a temporary resident visa;
- Applying for an extension of authorization to remain in Canada as a temporary resident;
- Requesting a temporary resident permit;
- Applying for restoration of temporary resident status;
- Applying for a work permit or renewal of a work permit;
- Applying for a study permit or renewal of a study permit;
- Applying to remain in Canada as a permanent resident, applicable to a protected person, within the meaning of subsection 95(2) of the Act;
- Submitting a claim for refugee protection, made in Canada;
- Submitting a claim for refugee protection, made outside Canada;
- Applying for a new permanent resident card made for the first time by a person, 14 years of age or older, who, when they made an application referred to in any of paragraphs (a) to (c), was exempted under paragraph 12.2(1)(a) from providing their biometric information under section 10.01 of the Act.

## **Who is exempt from having their biometrics enrolled?**

5. R12.2 (1) and 12.7 (1) establish exemptions from providing biometric information (and therefore being verified upon entry to Canada) for certain applicants who would normally be required to provide biometric information.

6. Those who are exempt from biometric collection include:

- A person who is under the age of 14;
- A person who is over the age of 79, unless that person makes a claim in Canada for refugee protection;
- A person who makes an application or request referred to in any of paragraphs 12.1(e) to (i) if they are:
  - Her Majesty in right of Canada and any member of the Royal Family, or
  - a citizen of the United States;
- A person who makes an application referred to in paragraph 12.1(h) or (i) if they are
  - in Canada and have made a claim for refugee protection that has not yet been determined by the Refugee Protection Division,
  - in Canada and have had refugee protection conferred on them, or
  - a member of the Convention refugees abroad class or a member of a humanitarian-protected persons abroad class;

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- A person who is a head of state or head of government who makes an application or request referred to in any of paragraphs 12.1(d) to (i);
- A person who seeks to enter Canada in the course of official duties as a properly accredited diplomat, consular officer, representative or official of a country other than Canada, of the United Nations or any of its agencies or of any intergovernmental organization of which Canada is a member;
- A person who is a family member of a person referred to in paragraph (f);
- A person who holds a valid United States entry visa, is destined to or returning from that country and seeks to enter Canada for a period of less than 48 hours and who
  - is travelling by transporter's vehicle to a destination other than Canada, or
  - is transiting through or stopping over in Canada for refuelling or for the continuation of their journey in another transporter's vehicle;
- A foreign national referred to in paragraph 7(2)(a) who makes an application for temporary resident status as a member of the visitor class; or
- A foreign national referred to in subsection 7.01(1) who is the holder of an electronic travel authorization and makes an application for temporary resident status as a member of the visitor class.

## 7. Public-policy exemptions for FN's exempted by IRCC's Minister under A25.2 (1)

**Note:** Up until December 3, 2019, all temporary resident and permanent applicants who were eligible to submit an application from within Canada as defined in IRPR (R11, R199, R215) were exempt from the requirement to provide biometrics. This exemption ended on December 3, 2019, when the IRCC via Service Canada began the in-Canada collection of biometrics.

## Who may be exempted from having their biometrics enrolled?

8. R12.7(1) (b) exempts a person who makes an application or request referred to in paragraphs 12.1(d) to (i) from the requirement to provide their biometrics under section 10.01 of the Act if they have already provided them under section 10.01 of the Act in support of an application or request referred to in any paragraphs 12.1(d) to (i) within the past 10 years. 1 in 10 Policy.

Prior to the collection of biometrics, BSOs must review Global Case Management System (GCMS) to determine if an individual is temporarily exempt from the requirement to provide biometrics.

Note: Under the 1 in 10 policy a traveller is required to provide new biometrics if their application will extend their status beyond the 10 year validity of their biometrics.

Example: Biometrics were collected July 31, 2018 and are valid until July 30, 2028. On January 1, 2027 an application is received requesting a three-year work permit – valid until December 31, 2030. As the validity of the status document can not be beyond the biometrics validity the applicant is required to complete a new biometric enrollment and pay the fee, or the BSO may issue the permit to a maximum validity of July 30, 2028.

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9. R12.8 provides the authority for a designated officer to exempt a person from biometric enrollment where by their judgement it is impossible or not feasible. A designated officer must utilize discretion in applying this exemption. They should consider undue hardship to the traveller, the purpose of the trip (i.e. strict timelines and other extenuating circumstances) and benefit to Canadian society or significant contribution to the Canadian economy.

Immigration Legislation Manual 3 (IL3) – Designation of Officers and Delegated Authority outlines the delegates and designated persons who may authorize an exemption under section 12.8:

- Superintendent
- Inland Enforcement Supervisor
- Hearings Advisor
- Hearings Officer
- Regional Program Officer

Persons who are exempt from providing biometric information are not required to be biometrically verified as part of admissibility examination.

## Biometric Enrolment Procedures in Secondary

10. The CBSA provides biometric enrollment services at select POEs for individuals who submit an application for a work, study, or temporary resident permit to the CBSA while seeking entry to Canada.

The CBSA also collects biometrics upon arrival in Canada for a limited number of resettled refugees where IRCC has provided a temporary exemption to the biometric requirement.

The CBSA does not provide biometric collection services at POEs for individuals who have submitted an application to IRCC (on-line or by mail) and have received a Biometric Instruction Letter. Individuals who receive a Biometric Instruction Letter may provide their biometrics at a Visa Application Center, United States Citizenship and Immigration Services Application Support Center, or a Service Canada Location.

11. BSOs must create the application in GCMS prior to capturing the traveller's photo and fingerprints for enrolment.

BSOs must review the application's biometric assessment and clients GCMS profile prior to collecting biometrics to determine if the applicant has provided biometrics within the past 10 years and therefore may be temporarily exempted from the requirement to provide biometrics under the 1 in 10 policy - R12.7(1)(b). GCMS will automatically associate their previous biometrics to an open application. Individuals will be required to provide new biometrics when their permit extends beyond the validity of their biometrics.

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To ensure that the biometric enrollment automatically associates to the application, BSOs must create the application in GCMS prior to capturing the traveller's photo and fingerprints for enrolment.

Individuals who make a claim for refugee protection at a POE must have their biometrics collected using the refugee workflow on LiveScan, regardless if they were previously biometrically enrolled as a temporary resident.

12. If biometric collection is required, the BSO will direct the traveller to the LiveScan device. See the [LiveScan User Guide](#) for instructions on how to enrol a traveller using the Immigration workflow (Temporary residents) or Refugee workflows.

The RCMP will provide biometric screening results on LiveScan within two hours. The RCMP regularly provides automated results within minutes but may exercise the two-hour service standard in situations where an analyst must conduct a manual fingerprint review to identify a match or no match.

Biometric screening results include a file number that corresponds to either a new or existing immigration file. When applicable, an existing refugee file number, or a criminal/Fingerprint section (FPS) number will be provided. The application cannot be approved until the biometrics have been associated to the application in GCMS.

13. Additional criminal information can be obtained through the Canadian Police Information Centre (CPIC) if necessary.

14. Once the application is approved in GCMS, the biometrics will be transmitted to the Traveller Biometric Identifier Database (TBID) and be available for future verifications.

## Enrolment Procedures for CBSA Inland Offices

15. Officers must create the application in GCMS prior to capturing the traveller's photo and fingerprints for enrolment.

Officers must review the application's biometric assessment and clients GCMS profile prior to collecting biometrics to determine if the applicant has provided biometrics within the past 10 years and therefore may be temporarily exempted from the requirement to provide biometrics under the 1 in 10 policy - R12.7(1)(b). GCMS will automatically associate their previous biometrics to an open application. Individuals will be required to provide new biometrics when their permit extends beyond the validity of their biometrics.

To ensure that the biometric enrollment automatically associates to the application, Officers must create the application in GCMS prior to capturing the traveller's photo and fingerprints for enrollment.

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Individuals who make a claim for refugee protection must have their biometrics collected using the refugee workflow on LiveScan, regardless if they were previously biometrically enrolled as a temporary resident.

## **Biometric Collection from Resettled Refugees**

16. The CBSA collects biometrics from a limited number of resettled refugees. When IRCC determines that an interview is not required or conducts an interview via video conference, they may temporarily exempt an applicant from the requirement to provide biometrics. This temporary exemption ends when the applicant arrives in Canada, and biometrics must be collected prior to granting permanent resident status in GCMS.

Individuals requiring biometric enrollment will have "Bio-CDA" printed within the remarks section of their Confirmation of Permanent Residence Document.

BSOs are to utilize the "Immigration" workflow on LiveScan to collect biometrics from these individuals. BSOs should not use the "Refugee" workflow as these individuals are not initiating an in-Canada asylum claim.

## **Biometric Collection from in-Canada Refugee Claimants**

17. Section 10.01 of IRPA and R12.1(k) provide the specific requirements for individuals who initiate a refugee claim in Canada including at a POE to provide biometrics.

Officers processing refugee claims are required to collect biometrics from refugee claimants 14 years or older using LiveScan and the "Refugee" workflow for all in-Canada claimants regardless if they were previously biometrically enrolled.

As per R12.2(1)(b) biometric enrollment for in-Canada refugee claimants continues to be required for individuals over the age of 79. All individuals 14 years or older are required to provide biometrics.

## **Unsolicited Criminal Notifications**

18. Prior to the final approval of a work, study, or temporary resident permit in GCMS, CBSA officers must review biometric results within the application for Unsolicited Criminal Notifications (UCN).

Individuals who are temporarily exempt from the requirement to provide biometrics under the 1 in 10 policy will NOT have their biometrics queried against the RCMP for new criminal information, GCMS will display the original screening results. Instead of rescreening the biometrics the RCMP will proactively push a UCN to GCMS to advise the officer that there has been an in-Canada police interaction.

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When a FN or permanent resident has their fingerprints captured by a Canadian police agency, the CBSA will automatically receive a UCN if they were previously biometrically enrolled by the CBSA or IRCC in the Immigration or Refugee workflows including FNs who provided biometrics through the Temporary Resident Biometrics Program.

The CBSA will receive a UCN in GCMS for both a criminal record check as well as criminal charges. In order to obtain detailed information on a criminal record check or charges, as they may relate to the individual's admissibility to Canada, CBSA Officers will be required to query the CPIC database.

The biometrics response received from the RCMP at the time of initial biometric enrollment are displayed in GCMS and are a static field. It is not updated upon receipt of a UCN. When the biometric enrollment is used in a new application under the 1 in 10 Policy the result received on the initial biometric enrollment is displayed.

CBSA officers may review all UCNs received by the CBSA by querying the UCN tab within GCMS. It is recommended that inland offices regularly review UCNs received for their specific areas of responsibility or responsible police agencies to ensure that appropriate follow up is conducted on individuals who have been arrested or charged by police.

## **Processing Applications when Biometric Ingestion into Global Case Management System (GCMS) is Delayed**

19. Applications in GCMS which require the collection of biometrics cannot be approved until biometrics have been associated. In certain instances, the ingestion of biometrics into GCMS is delayed, preventing the BSO from approving the application.

When the biometric screening results have returned on LiveScan but are not yet available in GCMS the BSO may use the “Override” function in GCMS to finalize the application. Prior to overriding the biometric assessment, the BSO must review the LiveScan results for identity, criminality, and immigration history to ensure there are no admissibility concerns.

Officers must document the LiveScan results and the use of the override function by including a note within the application in GCMS.

## **Non-Biometrics Ports of Entry**

20. R12.3(a)(ii) outlines that for the purposes of section 10.01 of the Act and relating to the collection of biometric information a person who makes a claim, application or request shall present themselves at an immigration office, a port of entry or other location if authorized or directed by an officer to do so.

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R12.001 outlines that a person — who under section 10.01 of the Act is required to provide their biometric information — may only make a request for a temporary resident permit under subsection 24(1) of the Act or an application for a work or study permit at a port of entry if that port of entry provides collection services for biometric information.

Individuals seeking temporary resident documents who appear at a POE without biometric enrollment equipment and who are required to provide biometrics should be redirected to the nearest biometrically equipped POE.

An applicant should not be temporarily exempt from the requirement to provide biometrics under regulation 12.8 (Collection of biometric information impossible or not feasible) simply because a POE does not provide biometric enrollment services.

When redirecting clients to a CBSA POE that is equipped with biometric enrollment, it is recommended that CBSA officers use a direct back. The form can be completed in GCMS or manually with form BSF 505. The client must be provided with a copy of the document.

Alternatively, CBSA officers may allow the applicant entry for further examination pursuant to section 23 of IRPA using form BSF 536. Applicants should be directed to the closest POE which provides biometrics enrollment services.

When completing the BSF 505 Direction to Return to the United States, the officer MUST add the following in the location field:

This Port of Entry (POE) is not equipped to enrol your biometrics. As per R12.3(a)(i) of the Immigration and Refugee Protection Regulations, you must present yourself to a POE where these services are available. The closest equipped POE is \_\_\_\_\_.

## Discretionary Enrollment

21. As per IRPA section 16(2)(a), a CBSA officer may, on a case-by-case basis, use their discretionary authority to collect biometric information from temporary resident applicants who may be exempt from biometrics due to age, status or citizenship, but about whom the CBSA officer has concerns.

Biometrics collected under IRPA section 16(2)(a) are not subject to the biometric enrollment fee.

## Dual Citizens

Should a traveller present themselves as a dual citizen, the CBSA officer has the discretion to process the traveller under the nationality which affords the traveller maximum benefits under the IRPA.

## Prescribed Countries List

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22. As per R12.1(1), unless exempt, mandatory collection of biometrics is required for FNs from the following countries beginning on the associated date.

**July 31, 2018:** Afghanistan; Albania; Algeria; Andorra; Angola; Armenia; Austria; Azerbaijan; Bahrain; Bangladesh; Belarus; Belgium; Benin; Bosnia-Herzegovina; Botswana; Bulgaria; Burkina Faso; Burundi; Cambodia; Cameroon; Cape Verde; Central African Republic; Chad; Colombia; Comoros; Congo (Democratic Republic of the); Congo (Republic of); Croatia; Cyprus; Czech Republic; Denmark; Djibouti; Egypt; Equatorial Guinea; Eritrea; Estonia; Ethiopia; Finland; France; Gabon; Gambia; Georgia; Germany; Ghana; Greece; Guinea; Guinea-Bissau; Haiti; Hungary; Iceland; Iran; Iraq; Ireland; Israel; Italy; Ivory Coast; Jamaica; Jordan; Kazakhstan; Kenya; Kosovo; Kuwait; Kyrgyzstan; Laos; Latvia; Lebanon; Lesotho; Liberia; Libya; Liechtenstein; Lithuania; Luxembourg; Macedonia (FYR); Madagascar; Malawi; Mali; Malta; Mauritania; Mauritius; Moldova; Monaco; Montenegro; Morocco; Mozambique; Myanmar; Namibia; Netherlands (The); Niger; Nigeria; Norway; Oman; Pakistan; Palestinian Authority; Poland; Portugal; Qatar; Romania; Russia; Rwanda; San Marino; Sao Tome and Principe; Saudi Arabia; Senegal; Serbia; Seychelles; Sierra Leone; Slovak Republic; Slovenia; Somalia; South Africa; South Sudan; Spain; Sri Lanka; Sudan; Swaziland; Sweden; Switzerland; Syria; Tajikistan; Tanzania; Togo; Tunisia; Turkey; Turkmenistan; Uganda; Ukraine; United Arab Emirates; United Kingdom; Uzbekistan; Vatican City; Vietnam; Yemen (Republic of); Zambia; and Zimbabwe.

**December 31, 2018:** Antigua and Barbuda; Argentina; Australia; Bahamas; Barbados; Belize; Bhutan; Bolivia; Brazil; Brunei; Chile; China; Costa Rica; Cuba; Dominica; Dominican Republic; East Timor; Ecuador; El Salvador; Federated States of Micronesia; Fiji; Grenada; Guatemala; Guyana; Honduras; India; Indonesia; Japan; Kiribati; Korea (Democratic People's Republic of); Korea (Republic of); Malaysia; Maldives; Marshall Islands; Mexico; Mongolia; Nauru; Nepal; New Zealand; Nicaragua; Palau; Panama; Papua New Guinea; Paraguay; Peru; Philippines; Saint Kitts and Nevis; Saint Lucia; Saint Vincent and the Grenadines; Samoa; Singapore; Solomon Islands; Suriname; Thailand; Tonga; Trinidad and Tobago; Tuvalu; (citizens or nationals from) the \*United States of America; Uruguay; Vanuatu; and Venezuela.

23. The collection of biometric information is not based on residency, but on nationality and the travel document used to apply for the visa/permit.

\*U.S. citizens are subject to biometric collection in the PR stream only.

## **Enrollment Procedures for FNs who may Require Assistance and Minors**

24. FNs who are 18 years or older, who are required to be biometrically enrolled will do so unaccompanied. Those FNs who are 17 years of age or under may be accompanied by a parent, guardian or other responsible adult (a person 18 years or older) when they provide their biometric information for enrollment purposes.

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25. Certain FNs for reasons of age, infirmity, or disability may require assistance to provide their biometric information. CBSA officers may assist FNs in providing their biometric information if required and agreed upon by the FN. Otherwise, the CBSA officer may allow any responsible adult (a person 18 years or older) to assist. In such a situation, the CBSA officer must be satisfied that the FN is genuinely unable to provide biometric information unassisted, ensure that the person assisting does not interfere with the enrollment process and that neither the FN nor the person assisting attempts any activity with the intention of providing fraudulent or erroneous biometric information.

## LiveScan Workflows

26. When using LiveScan, officers must ensure that the biometrics are collected using the appropriate workflow. The following provides an overview of the LiveScan workflows and their legislative authorities and uses.

Workflow	Description	Legislative Authority	Biometrics Retained by RCMP
Immigration	Biometric Enrollment for foreign nationals applying for work, study or temporary resident permits. Overseas resettled refugees requiring enrollment.	A10.01 R12.1	Yes
Refugee	Biometric Enrollment for in-Canada refugee claimants	A10.01 R12.1(k)	Yes
Deportee	To capture biometrics for removal process where the individual is <b>deported</b> or <b>deemed deported</b> .	A16(3)	Yes
Criminal Records Check	Search for registered convictions / charges	A16(2)	No
Criminal Charges	Charges under various legislation (Customs Act, IRPA, etc.)	Applicable Legislation	Yes
Civil	Employee Security Checks	N/A	No

## Biometric Verification Procedures

27. Reference 12.5 of IRPR outlines the procedure for biometric verification upon entry to Canada. When seeking entry to Canada and when directed by an officer or by alternative means of examination, a biometrically enrolled person shall provide their biometrics for verification.

Travellers who enter Canada at airports equipped with Primary Inspection Kiosks (PIK) will verify their biometrics (fingerprints) at PIK.

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BSOs processing travellers entering Canada using the Integrated Primary Inspection Line (IPIL) (highway or air) will visually compare the traveller to their biometric enrollment photo and their ePassport photo (if applicable). BSOs may refer these individuals to secondary for a fingerprint verification on a discretionary basis.

## Biometric Verification – PIK

28. Biometrically enrolled travellers who complete their primary processing via PIK will be prompted by the system to complete a fingerprint verification.

Travellers will be required to present either their left or right hand (up to four fingers) to conduct the fingerprint verification. PIK will transmit the fingerprints to the RCMP for verification. The RCMP will conduct a one to one verification to confirm the traveller's identity. The RCMP does not return any results other than an identity verification (i.e. no criminal screening, wants and warrants).

The RCMP response may be reviewed within Secondary Processing (SP). RCMP fingerprint results are not indicated on the PIK receipt. A No-Match result will be displayed as an X or other port-specific coding for an immigration referral and is the only RCMP result displayed on the PIK receipt.

Travellers who are unable to have their fingerprints captured will not be referred to secondary, and are not required to be fingerprinted in secondary. Individuals who receive an “unable to auto certify”, “file not found”, or “error” response from the RCMP will be referred to an officer for manual facial verification.

## Biometric Verification – Integrated Primary Inspection Line (IPIL)

29. When a traveller arrives at Primary Inspection Line (PIL), the BSO will scan the Machine Readable Zone (MRZ) on the travel document. If the FN or PR was biometrically enrolled, the biographic data and photo collected at the time of visa/permit application will be displayed on the IPIL screen under the Bio Tab.

30. The BSO will compare the ePassport photo and biometric enrollment photo displayed in IPIL to the traveller and will be required to select whether the photo matches or does not match. The BSO is to then continue primary processing to make a release or refer determination.

31. Based on a review of the traveller's photo and tombstone data, if there is a question about the traveller's identity, the traveller may be referred to Secondary for further examination. The referral is to be made through IPIL Air or Highway with the corresponding port specific referral code on the E311/BSF423, kiosk receipt or E67.

Should a BSO select a photo “No Match” a mandatory referral to secondary will be generated in IPIL.

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32. Refer to the [IPIL Air Reference Guide](#) and [IPIL Highway Reference Guide](#) for step-by-step procedures for using Bio functionality within IPIL Air and IPIL Highway.

## Troubleshooting Guide for Completing Verifications at IPIL

Issue	Next Steps
MRZ does not populate in IPIL screen	Manually enter data to retrieve the Biometric enrollment data and photo.
No Bio file including photo and tombstone data appears when the traveller is biometrically enrolled	<p>The BSO is to determine whether the traveller is exempt from biometric enrollment.</p> <p>The BSO is to review the date of issuance of the visa/permit to determine if it was issued prior to the coming into force date for biometric enrollment (July 31, 2018 or December 31, 2018).</p> <p>The BSO is to confirm all biographic data to ensure that there was not a misread with the MRZ.</p>
No Bio file including photo and tombstone data appears when the traveller is biometrically enrolled	If not exempt and there are no errors in the biographic information, a Bio file should exist since there are no partial enrollments. The BSO may refer the traveller to Secondary for further examination.
No match to photo and/or biographical data	The BSO is to refer the traveller to Secondary for further examination.
A message is received indicating that the TBID is not available (system outage)	The BSO is to revert to non-biometric procedures to determine admissibility.

## Referral to Secondary

33. Based on a review of the traveller's photo and tombstone data, if there is a question about the traveller's identity, the traveller may be referred to Secondary for further examination. The referral is to be made through IPIL Air or Highway with the corresponding port specific referral code on the E311/BSF423, kiosk receipt or E67.

## Biometric Verification - Secondary

34. When a FN or PR is referred to Secondary and requires biometric verification, the BSO will retrieve the traveller's referral using SP.

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35. Upon selecting the traveller from the SP referral list and opening the secondary referral if the traveller referred is biometrically enrolled, their Bio photo, and tombstone data will be displayed, retrieved and the fingerprint scanning application will be initiated.

36. At POEs with fingerprint verification capabilities, the BSO will capture the traveller's fingerprints (10-digits, flat impressions), and will electronically send the prints to the RCMP for a one-to-one verification.

BSOs working at POEs equipped with PIK and primary fingerprint verification are not required to conduct a second fingerprint verification as part of a secondary examination unless there was a no-match result from Primary.

37. The BSO will receive the results of the verification back to their workstation within 10 seconds. The BSO will receive a match, no match, unable to auto-certify or error response. These are further explained in the section entitled Trouble Shooting Guide for Secondary Procedures.

38. Once the results are returned, continue using non-biometric procedures to make an admissibility decision.

39. For POEs that do not have the fingerprint verification capability, the photo and tombstone data from the Bio enrollment can be retrieved either through SP or through Passage History (PH). The photo can be compared to the traveller and the tombstone data to the documents presented to assist in confirming identity and determining admissibility. Previous fingerprint verification results will also be available in PH.

## Procedures relating to Secondary Treatment and Passage History

40. Refer to the Secondary Processing and Passage History Reference Guide, as well as the Biometrics Program Guide for step-by-step instructions on biometric referrals and procedures on how to conduct fingerprint capture.

## Verification Procedures for travellers who may require assistance and Minors

41. Travellers who are 18 years or older, who are required to be biometrically verified in Secondary will do so unaccompanied. Those travellers who are 17 years of age or under may be accompanied by a parent, guardian or other responsible adult (a person 18 years or older) when they provide their biometric information for verification purposes.

42. Certain travellers for reasons of age, infirmity, or disability may require assistance to provide their biometric information. CBSA officers may assist travellers in providing their biometric information if required and agreed upon by the traveller. Otherwise, the CBSA officer may allow any responsible adult (a person 18 years or older) to assist. In such a situation, the CBSA officer must be satisfied that the traveller is genuinely unable to provide biometric information unassisted, ensure

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that the person assisting does not interfere with the verification process and that neither the traveller nor the person assisting attempts any activity with the intention of providing fraudulent or erroneous biometric information.

## Troubleshooting Guide for Secondary Procedures

Issue/Situation	Next Steps
No Bio file is retrieved when the FN/PR should be biometrically enrolled	<p>The BSO is to determine whether the FN is exempt from Bio enrollment.</p> <p>The BSO is to confirm that the populated data from scanning the MRZ at PIL was entered correctly to ensure there was not a misread.</p> <p>Conduct a search within GCMS to retrieve the traveller's enrollment and biometric information.</p> <p>If not exempt and there are no errors in the populated information, a photo should be on file since there are no partial enrollments offered by IRCC.</p>
No Bio photo appears in the retrieved TBID file	<p>If no photo can be found, contact Biometric Operational Support Unit (BOSU) to further investigate.</p> <p>If an immediate response is not obtained from BOSU to rectify the issue, the BSO is to determine admissibility using non-biometric procedures.</p>
The photo does not match the FN/PR	<p>Conduct a search within GCMS to retrieve the traveller's enrollment photo for comparison.</p> <p>The officer should conduct a criminal record check using a LiveScan device. This searches the entire RCMP fingerprint database.</p> <p>Searching the entire RCMP database allows the officer to determine if the individual is biometrically enrolled (biometrics associated to the wrong UCI) or if no results are returned confirm the traveller is not biometrically</p>

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	<p>enrolled and therefore not a match to the biometrics provided at time of enrollment.</p> <p>If it is determined that the incorrect biometrics have been associated to the enrollment record, then contact BOSU.</p> <p>For POEs without fingerprint verification ability, determine admissibility using non-biometric procedures.</p>
The photo is of insufficient quality to determine whether it matches the traveller	<p>The BSO will proceed with a fingerprint verification (where available) to confirm identity.</p> <p>Report the photo issue to BOSU.</p> <p>For POEs without fingerprint verification determine admissibility using non-biometric procedures.</p>
The TR/PR tombstone data within SP/PH does not match the travel document presented	<p>The BSO will proceed with a fingerprint verification (where available) to confirm identity. Determine admissibility based on results returned.</p> <p>For POEs without fingerprint verification ability, determine admissibility using non-biometric procedures.</p> <p>For all modes, if it is determined that the incorrect tombstone data has been included in the enrollment record, then contact BOSU.</p>
Fingerprint Result – No Match	<p>If the RCMP returns a no match result do not submit another verification using the desktop verification device.</p> <p>The officer should conduct a criminal record check using a LiveScan device. This searches the entire RCMP fingerprint database. Searching the entire RCMP database allows the officer to determine if the individual is biometrically enrolled (biometrics matched to the wrong UCI) or if no results are returned, confirm the traveller is not biometrically</p>

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	enrolled and therefore not a match to the biometrics provided at the time of enrollment.
Fingerprint Result – Unable to Auto Certify	<p>If the RCMP returns an unable to auto certify result do not submit another verification using the desktop verification device.</p> <p>The officer should conduct a criminal record check using a LiveScan device. This searches the entire RCMP fingerprint database. Searching the entire RCMP database allows the officer to determine if the individual is biometrically enrolled (biometrics matched to the wrong UCI) or if no results are returned confirm the traveller is not biometrically enrolled and therefore not a match to the biometrics provided at the time of enrollment.</p> <p>If the results are returned as an unable to auto-certify, revert to non-biometric procedures to establish identity and determine admissibility.</p>
Fingerprint Result – Error from the RCMP	<p>If the results are returned as an error, revert to non-biometric procedures to establish identity and determine admissibility.</p> <p>The BSO will contact Local IT to report the systems issue.</p>
Fingerprint Result – Error – Unable to locate the immigration file or no IID found	<p>The BSO reports the issue to BOSU.</p> <p>The BSO is to revert to non-biometric procedures to establish identity and determine admissibility.</p>
Fingerprint Result – No response is received from the RCMP	<p>The BSO is to revert to non-biometric procedures to establish identity and determine admissibility.</p> <p>The BSO will contact Local IT to determine if there is a systems issue.</p>
The FN/PR refuses to give his or her fingerprints	The BSO can compel the traveller to provide their fingerprints if not exempt as per IRPA Section A12.5, A16(1) and A16(2)(a).

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	Standard procedures for determining admissibility in these situations are to be followed.
The fingerprint device is malfunctioning or needs to be cleaned	An error message will inform the BSO that the device is malfunctioning or needs to be cleaned.  The BSO either goes to another device (if available) or reverts to non-biometric procedures to determine admissibility.  The BSO is to report the malfunction, or clean the device using the wipe provided with the verification kit.
All fingerprints devices are malfunctioning	An error message will inform the BSO that the verification functionality is down (system outage).  The BSO is to revert to non-biometric procedures to determine admissibility.  The BSO is to report the malfunction to Local IT.
A message is received indicating that the TBID is not available (system outage)	The BSO is to revert to non-biometric procedures to determine admissibility.  The BSO is to report the outage to Local IT.

## Biometric Verification - Inland

43. CBSA officers working in an inland office who want to review an individual's biometric information may do so in several ways:

- An officer may review the photograph captured at the time of biometric enrollment by querying GCMS.
- An officer may retrieve the traveller's passage history in ICS to view their biographic photo and their latest verification results, including from primary if they entered Canada through a Primary Inspection Kiosk equipped with a fingerprint verification device.
- An officer may use a LiveScan device to conduct a criminal record check to query the RCMP in order to determine if the individual is enrolled in biometrics.

## Procedures for When Biometric Results are a No-Match

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Following a biometric verification if the verification results are a no-match result the BSOs must identify the reason for the no match result.

Below are common examples of no-match results and next steps.

Issue	Action Required
No-Match Result from verification at PIK	<p>Officer to review biometric enrollment photo in secondary processing. If photo appears to match the traveller, complete a fingerprint verification in secondary.</p> <p><b>If no-match continue to next steps.</b></p> <p><i>It is possible the traveller presented the wrong hand for verification in primary or the order of travellers was switched.</i></p>
Biometrics Photo / Fingerprint No-Match Result	<p>If the biometric photo displayed in secondary processing or GCMS does not match the traveller there may have been an error made during enrollment.</p> <p>If the officer can identify the error (i.e. The 2 enrollments which were switched) they may continue the examination using non biometric processing. Officers should contact IRCC – BOSU to modify the enrollment records.</p> <p><b>If the officer cannot identify the biometric mismatch continue to next steps.</b></p>
Verifying Biometric Enrollment using LiveScan	<p>To confirm if a traveller has been biometrically enrolled, officers should conduct a Criminal Inquiry using LiveScan. A criminal inquiry will identify if the fingerprints exist within the RCMPs database.</p> <p>This will identify if someone is enrolled under a different name or the information to identify a mismatched profile.</p> <p>A response of No Reportable Trace from the RCMP means they do not have a record of the fingerprints and the individual is not biometrically enrolled.</p> <p>If a match is received from the RCMP, officers should identify if the biometrics were</p>

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	incorrectly associated to the wrong GCMS profile. They may contact IRCC – BOSU to modify the enrollment records.
Enrollment Photo matches but fingerprint no-match	<p>If the traveller's enrollment photo appears to match the traveller, it is possible that an error was made during the fingerprint capture (i.e. left and right hands were switched).</p> <p>Officers may contact the RCMP to investigate. The RCMP must be contacted within 24 hours and they will only compare the criminal inquiry print against the biometric enrollment.</p> <p>Officers may contact the RCMP by email or fax.</p> <p>Email: <a href="mailto:@rcmp-grc.gc.ca">@rcmp-grc.gc.ca</a> Fax: 613-993-5810</p> <p>When contacting the RCMP the following information must be included:</p> <ul style="list-style-type: none"> <li>- Officer's name, phone number and fax number;</li> <li>- Information used to conduct the LiveScan Criminal Inquiry: DCN, surname, given name, date of birth;</li> <li>- IMM number 50000xxxxxxxx that should be associated to the individual;</li> <li>- Printed copy of the CAR-N Fingerprint Card</li> </ul> <p>The RCMP will fax the results back to the CBSA. Results may be positive, negative or inconclusive.</p>

## Complaints about the Biometric Process

44. Should a traveller want to submit a complaint regarding the biometric process, they may do so by completing the online feedback form found on the CBSA external website: <https://www.cbsa-asfc.gc.ca/contact/com-eng.html>.

## Biometrics Operational Support Unit (BOSU)- (IRCC support desk) Contact Information and Procedures

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45. BOSU is the support desk for receiving inquiries concerning issues with the collection, transmission, verification and receipt or reading of biometric data. However, BOSU does not accept technical inquiries related to the LiveScan device. See LiveScan—(CBSA Support) Contact Information and Procedure. BOSU will also be involved when data integrity issues are identified. BOSU is operational 24 hours a day, 7 days a week.

46. A CBSA officer may contact BOSU in situations such as:

- if the biometric photo was of such poor quality that the CBSA officer is unable to identify the person;
- if there are errors in the biographical information or photo being presented on IPIL or in SP/PH; or
- The CBSA officer was unable to retrieve a biometrics file (the CBSA officer should confirm an enrollment).

It is always recommended that the CBSA officer conduct a search within GCMS to confirm whether a biometric enrolment of the FN or PR occurred prior to contacting BOSU.

47. For efficiency, BOSU will accept inquiries only regarding biometric issues. If the CBSA officer has a question or issue regarding the visa decision, pre-established procedures for communication between CBSA and IRCC should be followed.

48. A CBSA officer has two options for contacting BOSU when questions regarding the biometric information related to a specific case arise:

- If the CBSA officer is able to make an admissibility decision without contacting BOSU, the CBSA officer can email BOSU after the case has been finalized.
- If, however the CBSA officer is not able to make a decision on the person's admissibility, the CBSA officer can call BOSU directly for assistance.

49. BOSU may be contacted by phone at 613-960-1733.

50. BOSU may be emailed at the following address:

In all email communications with BOSU, ensure the following CBSA HQ Biometrics mailbox is copied:

Note: BOSU will reject an email if it is not from someone with an email address that ends in @cbsa-asfc.gc.ca.

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All email requests to BOSU will require the CBSA officer to follow a standard format (refer to **Annex A: BOSU Email Request Form**).

BOSU will email back the requesting the CBSA officer (with a cc. to the CBSA HQ generic mailbox) of the action taken. If BOSU is unable to address the issue, the CBSA officer will be informed that the request has been referred to the responsible unit at IRCC HQ.

Inquiries will be addressed by BOSU or referred by BOSU to another IRCC HQ unit for resolution within one (1) business day.

If BOSU requests any documents, they can be faxed to 613-957-4660. Alternatively, mail can be sent to BOSU at the following address (using internal mail):

Biometric Operational Support Unit (BOSU)  
Operations Support Centre (OSC)  
Immigration, Refugees and Citizenship Canada  
Ottawa, Ontario, Canada K1A 1L1

## **Procedures for Equipment Replacement, Repair and Cleaning for Verification in Secondary**

51. In the case where the fingerprint capture device malfunctions or requires replacement or cleaning, contact your Local IT representative for assistance.

## **LiveScan- (CBSA Support) Contact Information and Procedure**

52. LiveScan is the support desk for receiving inquiries concerning issues with the collection or transmission of biometric data. LiveScan is operational 8 hours a day, 7 days a week.

53. LiveScan Support Mailbox 8:00 a.m. to 4:00 p.m. EST Monday to Friday:

## **Global Case Management System (GCMS)- (CBSA Support) Contact Information and Procedure**

54. GCMS Support Unit is the support desk for receiving inquiries concerning traveller processing in GCMS. GCMS Support of operational 24 hours a day, 7 days a week.

55. GCMS Support Mailbox 8:00 a.m. to 4:00 p.m. EST, Monday to Friday:

GCMS After Hours Number: 613-797-6560

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## Annex A: BOSU Email Request Form

**Important:** A separate email request must be sent for each applicant.

<b>CBSA Use</b>	
<b>To:</b>	
<b>CC:</b>	
<b>Subject:</b>	Priority (Normal or Urgent), CBSA location, Nature of Request
<i>(Example: Normal, CBSA Cornwall Traffic POE, Photo quality)</i>	
<b>Note:</b> The <b>Subject</b> line of the email has to respect this naming convention to facilitate and accelerate the processing of the request by IRCC (BOSU).	

### Applicant Information to provide (if available):

Surname (first four characters only)	
CIC #	
Biometric ID	
UCI #	
IID(s)	
DCN # (known as "RCMP # in GCMS)	
TRV Visa #	

### Reason for contacting IRCC BOSU:

Write the details of the reason you are contacting BOSU. Include *if applicable*:

- *Issue encountered at POE.*
- *What is the impact on operations if this request is not dealt with?*

### Signature Block of CBSA BSO:

*Please include:*

- *full name*
- *email address*

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